

and the Civil Surgeon of the district or such other officer as the Lieutenant-Governor may from time to time appoint in that behalf shall exercise the powers and perform the duties by this Act assigned to the Superintendent of Vaccination.

PROSECUTIONS AND OFFENCES.

26. If the Superintendent of Vaccination shall notify in writing to a Magistrate that he has reason to believe from the statement of an informant

Magistrate may make an order for the vaccination of any unprotected child under 14 years.

or otherwise that any child under the age of fourteen years is an unprotected child, and that he has given notice to the parent or guardian of such child to procure its being vaccinated, and that the said notice has been disregarded, such Magistrate may summon such parent or guardian to appear with the child before him; and if the Magistrate shall find, after such enquiry as he shall deem necessary, that the child is an unprotected child, he may, whether the child has been produced or not, make an order directing such child to be vaccinated within a certain time. If the child is at any time produced before him the Magistrate may, unless the child is certified under section 5 to be in a state unfit for vaccination, order it to be vaccinated forthwith in his presence, and in that case may punish such parent or guardian for any recusancy under this clause with fine which shall not exceed Rs. 5.

If at the expiration of the time appointed by the Magistrate the child shall not have been vaccinated, or shall not be shown

Penalty for disobedience of such order.

to be then unfit to be vaccinated, or to be insusceptible of vaccination, the person upon whom such order shall have been made shall, unless he can show some reasonable ground for his omission to carry the order into effect, be punished with fine which may extend to fifty rupees;

Provided that if the Magistrate shall be of opinion that the person is improperly brought before him, and shall refuse to make an order for the vaccination of the child, he may direct the said Superintendent to disclose the name of his informant, if any, and may order such informant to pay to such person such sum of money as the Magistrate shall consider a fair compensation for expenses and loss of time in attending before him;

Provided also that nothing in this section shall be held to compel the production before a Magistrate of any female child above the age of eight years.

27. If any parent or guardian intentionally omits to produce a child whom he has been summoned to produce under the last preceding section, he shall be liable to fine which may extend to Rs. 100, and to a further fine of Rs. 25 for every day during which the offence continues;

Provided that the aggregate amount of fine for such offence shall not exceed Rs. 1,000.

28. Whoever, in contravention of this Act, (a) neglects without reasonable excuse to submit himself within 15 days after the service on him of the notice prescribed by section

11 to a public vaccinator or medical practitioner to be vaccinated, or after vaccination to be inspected, or

Penalty for neglect to take child to be vaccinated, &c.

(b) neglects without reasonable excuse to take, or cause a child to be taken to be vaccinated, or after

vaccination to be inspected, or

(c) neglects to fill up and sign and give to any person or to the parent or guardian of any child any certificate which such person, parent or guardian is entitled to receive from him, or to transmit a duplicate of the same to the Registrar of Births,

shall be punished for each such offence with fine which may extend to fifty rupees.

No prosecution under this section shall be instituted after the expiry of twelve months from the date on which the offence has been committed.

29. Whoever wilfully signs or makes, or procures the signing or making of, a false certificate or duplicate certificate under this Act, shall be punished with imprisonment of either description, within the meaning of the Indian Penal Code, for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

30. All offences under this Act shall be cognizable by a Magistrate, subject to the provisions of any law for the time being in force for the trial of offences, but no complaint of any such offences shall be entertained unless the prosecution is instituted by order of, or under authority from, the Lieutenant-Governor or the Superintendent of Vaccination.

31. In any prosecution for neglect to procure the vaccination of a child, it shall not be necessary in support thereof to prove that the defendant had received notice from the Registrar or any other officer of the requirements of the law in this respect; but if the defendant produce any such certificate as hereinbefore described, or the duplicate of the Register of Births or the Register of Postponed Vaccinations kept by the Registrar as hereinbefore provided, in which such certificate shall be duly entered, the same shall be a sufficient defence for him, except in regard to the certificate according to the form of the said Schedule A, when the time specified therein for the postponement of the vaccination shall have expired before the time when the information shall have been laid.

MISCELLANEOUS.

32. It shall be the duty of the Superintendent of Vaccination to show in an Annual Return the number of children successfully vaccinated, the number whose vaccination has been postponed, and the number certified to be insusceptible of successful vaccination during the year; and generally to fill up any forms that may be prescribed from time to time by the Lieutenant-Governor or the Corporation.

33. The Lieutenant-Governor may from time to time make rules or issue orders consistent with this Act—

Lieutenant-Governor to make rules.

(a) determining the qualifications to be required of public vaccinators;

- (b) regulating the scale of fees to be paid outside the Town of Calcutta;
- (c) regulating the gratuitous vaccination of such females as are by the custom of the country unable to attend at the public vaccine stations and are too poor to pay fees;
- (d) providing for the supply of lymph;
- (e) regulating the books and forms to be kept by the public vaccinators or by registrars, and also such forms as shall be required for the signature of medical practitioners under the provisions of this Act; and generally
- (f) for the guidance of public vaccinators and others in all matters connected with the working of this Act.

All such rules or orders shall be published in the *Calcutta Gazette*.

SCHEDULE A.

(See Section 5.)

I, the undersigned, hereby certify that in my opinion, the child of _____, resident at _____, is not now in a fit and proper state to be vaccinated, and I do hereby recommend that the vaccination be postponed for the period of three months from this date.—Dated this _____ day of _____ 18____.

(Signature of Medical Practitioner or Public Vaccinator.)

SCHEDULE B.

(See Section 6.)

I, the undersigned, hereby certify that I have three times unsuccessfully vaccinated the child of _____, residing at _____ (or that the child has already had small-pox, as the case may be), and I am of opinion that the said child is insusceptible of successful vaccination.—Dated this _____ day of _____ 18____.

(Signature of Medical Practitioner or Public Vaccinator.)

(Endorsement by Superintendent of Vaccination.)

SCHEDULE C.

(See Section 7.)

I, the undersigned, hereby certify that the child of _____, age _____, resident at _____, has been successfully vaccinated by me.—Dated this _____ day of _____ 18____.

(Signature of Medical Practitioner or Public Vaccinator)

SCHEDULE D.

(See Section 11.)

To

Take notice that you are hereby required under the provisions of the Bengal Vaccination Act, 1880, to submit yourself to a public vaccinator or medical practitioner within fifteen days from the service of this notice for vaccination, and that in default of so doing you will be liable to a fine which may amount to Rs. 50.

The public vaccine station nearest your house is at _____. The days and hours for vaccination at that station are as follows:—

(Here insert the days and hours when the public vaccinator is in attendance.)

On your attending before a public vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine station in the town on the days and within the hours prescribed for public vaccination at such station, you will be vaccinated free of charge.

If you wish to be vaccinated at your own house the public vaccinator will attend there upon payment of a fee of _____

Dated the _____ of _____ 18____.

Superintendent of Vaccination,
or Civil Surgeon, as the case may be.

SCHEDULE E.

(See Section 18.)

To

(Here insert the name of the parent, guardian, or other person who gives information of the child's birth.)

Take notice that the child of (here enter the mother's name), whose birth has this day been registered, must be vaccinated under the provisions of the Bengal Vaccination Act, 1880, within one year from the date of its birth, under penalty.

The public vaccine station nearest to the house in which the child was born is at No. _____.

The days and hours for vaccination at that station are as follows:—

(Here insert the days and the hours when the Public Vaccinator is in attendance.)

On your taking, or causing the child to be taken, to the public vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine station in the city on the days and within the hours prescribed for public vaccination at such station, it will be vaccinated free of charge.

If you wish to have the child vaccinated at your own house the public vaccinator will attend there upon payment of a fee of _____

You should be careful to have one of the annexed forms of certificates filled in by the public vaccinator, or if you employ a private medical practitioner to vaccinate the child, by such medical practitioner, and to keep the same in your possession. Any such certificate will be granted to you by a public vaccinator free of charge.

Dated the _____ of _____ 18____.
Registrar of Births.

SCHEDULE F.

(See Section 22.)

Register of Postponed Vaccinations for the District of _____

Consecutive number.	NAME OF CHILD.	BIRTH		Date of certificate of postponement.		Signature of Registrar.
		Year.	Number of entry in register.			
1	Ram Chunder Das.	1878	12	May ... 1878.	10	H. O.

W. E. H. FORBETH,

Offg. Asst. Secy. to the Govt. of Bengal.



The Calcutta Gazette.

WEDNESDAY, JUNE 2, 1880.

PART III.

Acts of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 7th April 1880, and having received the assent of His Excellency the Governor-General on the 6th May 1880, is hereby promulgated for general information:—

Act No. III of 1880.

An Act to amend the Howrah Bridge Act, 1871.

Whereas under the sanction of the Lieutenant-Governor of Bengal the Commissioners for making improvements in the Port of Calcutta, being the Commissioners appointed under Bengal Act IX of 1871, have for some time past been running steamers from Calcutta to Howrah and back, and carrying passengers and goods therein, and employing tugs and other boats in towing vessels through the Howrah bridge and generally in the service of the said bridge, and it is expedient that they should continue to own and work such steamers, tugs, and boats for the purposes aforesaid and also that the said Commissioners should, have power to build, purchase, provide, or procure steam-vessels and tugs and other craft and employ the same for any of the purposes aforesaid: It is hereby enacted as follows:—

1.—This Act shall be, and shall be deemed to be part of Bengal Act IX, 1871, to have always been, a part of Bengal Act IX of 1871.

2.—It shall be lawful for the Commissioners, with the sanction of the Lieutenant-Governor of Bengal, to build or acquire in any manner whatsoever such steam or other vessels as they may think fit, and to employ the same or any of them in towing vessels through the bridge and generally in the service of the bridge, and also in carrying goods, merchandize, and passengers to and from such places in Calcutta and Howrah as may from time to time be fixed by the Lieutenant-Governor,

and to book and receive goods, merchandize, and passengers at any such places, and to make and levy such fees and charges as may from time to time be prescribed by the Lieutenant-Governor for the aforesaid duties and services.

W. E. H. FORSYTH,

Offg. Asst. Secy. to the Govt. of Bengal.

[Third Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 16th March 1880, and having received the assent of His Excellency the Governor-General on the 10th May 1880, is hereby promulgated for general information:—

Act No. IV of 1880.

An Act for amending the Calcutta Port Improvement Act, 1870.

Whereas upon the appointment of the Commissioners for making Improvements in the Port of Calcutta to be Conservators of the said Port under the provisions of section 95 of Bengal Act V of 1870, the sum of Rs. 17,65,000 was amongst others due from the said Commissioners to the Secretary of State for India in Council, and it was subsequently agreed between the said Commissioners and the said Secretary of State that the former should be held liable for interest on the said Rs. 17,65,000, and should not be called upon to repay the principal, and it is expedient to provide for payment of interest on the said sum; and whereas the said Commissioners have purchased Government securities of the par value of 5½ lakhs of rupees, hereinafter called the reserve fund, to meet sudden and urgent disbursements connected with the said Port, and it is expedient to exempt the same from liability for certain debts of the said Commissioners; and whereas it is expedient to empower

the said Commissioners to borrow money for the estimated costs of any works hereafter to be undertaken by them, and to borrow from the said Secretary of State the sum of Rs. 53,40,349-3 in respect of works hitherto undertaken by them, and to provide for the repayment of the same, and to further amend Bengal Act V of 1870: It is hereby enacted as follows:—

1. This Act may be called "The Calcutta Port Improvement Act Amendment Act;"

Short title.

It shall be read with, and taken as part of, Bengal Act V of 1870, as amended by Bengal Act VII of 1871 and Bengal Act III of 1872, and it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

Commencement.

2. Sections 6, 7, 8, 9, 10, 41, 42, 43, 44, 45, 46, 47, 82, 83, 84 and 90 of Bengal Act V of 1870, and Schedules A, B and C annexed thereto, are hereby repealed.

This repeal shall not affect the validity of anything done or suffered, or any right, title, obligation or liability accrued before the commencement of this Act.

3. All property vested in, or acquired or held by, and all moneys paid or payable to, the Commissioners shall be held upon trust for the purposes of this Act and not otherwise.

Property of Commissioners to be held for purposes of this Act, &c.

4. It shall be lawful for the Commissioners to borrow from the Secretary of State for India in Council the sum of Rs. 53,40,349-3 upon the terms hereinafter mentioned.

Commissioners may borrow from Government.

5. Interest at the rate of 4½ per cent. per annum upon the said sum of Rs. 53,40,349-3 and upon the said sum of Rs. 17,65,000 shall be paid by the Commissioners to the said Secretary of State half-yearly; the first of such payments to be made on the 30th day of June 1880.

Payment of interest.

6. The said sum of Rs. 53,40,349-3, together with the interest thereon, shall be repaid by the Commissioners to the said Secretary of State by equal half-yearly instalments of such amount that the whole shall be repaid within thirty years from the commencement of this Act; provided that the Lieutenant-Governor of Bengal may, upon the representation of the Commissioners, and with the sanction of the Governor-General in Council, postpone the period of re-payment.

Re-payment of principal.

7. In case of default of payment of any such instalment or interest, the Lieutenant-Governor of Bengal may proceed to realize the same on behalf of the said Secretary of State in the manner prescribed by sections 17 and 18 of this Act; but nothing in this Act shall be deemed to confer upon the said Secretary of State any greater or prior right in respect of realization than that conferred upon other creditors of the Commissioners under this Act.

In case of default Government how to proceed.

8. It shall be lawful for the Commissioners, if they think fit, out of any moneys which may come into their hands under the provisions of this Act, to repay to the said Secretary of State any sum which for the time being may remain due to him under the provisions of this Act for principal, although the time fixed for the repayment of the same shall not have arrived: provided that no such repayment shall be made of any sum less than ten thousand rupees; and that if any such re-payment is made, the amount of interest in each succeeding half-yearly instalment shall be adjusted so as to represent exactly the interest due on the outstanding principal.

Power to repay before due date.

9. If the Lieutenant-Governor of Bengal shall by an order published in the *Calcutta Gazette* so direct, it shall be lawful for the Commissioners from time to time to raise money for the estimated cost of any works or arrangements sanctioned by him to such extent as he may from time to time direct.

Money to be raised for works, &c.

10. In such case it shall be lawful for the Commissioners to raise a loan or loans on the security of all, or with the sanction of the Lieutenant-Governor of Bengal, of any portion of the property, vested in or acquired by them under this Act, other than the said reserve fund, or the sinking fund provided for by section 11 of this Act, or on the security of the total aggregate amount of the proceeds of all or any of the tolls, duties, rates and charges leviable under this Act.

Security for loans.

11. Unless the Lieutenant-Governor of Bengal with the previous sanction of the Governor-General in Council shall by an order published in the *Calcutta Gazette* otherwise direct, such loans shall be contracted in India and in the Indian currency, and the Commissioners shall accumulate by half-yearly instalments in the case of each of such loans a sinking fund of such an amount as will suffice to liquidate such loan within a period not exceeding thirty years from the date of the contracting of the same.

Loans to be contracted in India.

Such sinking fund shall be invested in the names of two trustees, one to be appointed by the Lieutenant-Governor of Bengal, and one by the Commissioners, in the promissory notes, debentures, stock and other securities of the Government of India, or in the debentures issued by the Commissioners under this Act.

12. Such loans and the interest thereon shall be a first charge on the property or on the tolls, duties, rates, and charges on the security of which such loans shall have been raised as provided by section 10 of this Act.

Loans to be a first charge on property.

13. All the moneys so to be raised shall be applied by the Commissioners to the following purposes:—

Application of funds raised.

(a) the construction and repair of works and erections necessary or expedient for the carrying out of the purposes of this Act;

(b) the acquisition of immovable and movable property requisite for such construction or repair as aforesaid;

(c) the payment of such salaries, fees and expenses, and such principal and interest as may be due by the Commissioners.

14. Whenever the half-yearly accounts to be laid before the Lieutenant-Governor of Bengal under the provisions of this Act show a surplus for the half-year of receipts over expenditure, such surplus, or so much thereof as the Commissioners shall think fit, may be invested by the Commissioners in the purchase in their corporate name of promissory notes, debentures, stock, and other securities of the Government of India, and the interest thereof may be accumulated and invested in like manner, with power to the Commissioners at any time to dispose of any such securities, and to apply the proceeds and interest thereof, with the sanction of the Lieutenant-Governor of Bengal, in or towards any of the purposes of this Act.

15. The Commissioners may at any time according to the provisions aforesaid, and with the approval of the Lieutenant-Governor of Bengal, raise in any of the ways aforesaid any money that may be required to pay any amount for the time being due from the Commissioners under this Act.

16. All debentures which may be issued under the authority of this Act shall be in the form contained in the Schedule hereto annexed, or in such form as may from time to time be approved by the Commissioners and the Lieutenant-Governor of Bengal, and shall be transferable by endorsement; and the right to sue in respect of the moneys secured by any of such debentures shall be vested in the holders thereof for the time being without any preference by reason of some of such debentures being prior in date to others.

17. If the interest on any loan under this Act is not paid according to the conditions of the loan, the Lieutenant-Governor of Bengal may of his own motion, and shall upon the application of lenders holding not less than one-third in value of the total of the loan in respect of the payment of the interest on which default has been committed, attach the tolls, duties, rates, fund or property on the security of which the loan was made. After such attachment, no person except an officer appointed by the Lieutenant-Governor of Bengal shall in any way deal with the attached tolls, duties, rates, fund or property; but such officer may do all acts in respect thereof which the borrower might have done if such attachment had not taken place, and shall apply the proceeds in satisfaction of the interest on the loan and charges due in respect thereof and of all expenses involved by the attachment and subsequent proceedings; and on satisfaction of such interest, charges and expenses, the property so attached shall be at once released. No default in payment of interest shall render the loan repayable.

18. If any loan made under this Act is not repaid according to the conditions of this loan, the Lieutenant-Governor of Bengal may of his own motion, and shall upon

the application of lenders holding not less than one-third in value of the total of the loan on which default has been committed, attach the tolls, duties, rates, fund or property on the security of which the loan was made. After such attachment, no person except an officer appointed by the Lieutenant-Governor of Bengal shall in any way deal with the attached toll, duty, rate, fund or property; but such officer may do all acts in respect thereof which the borrower might have done if such attachment had not taken place, and shall apply the proceeds in satisfaction of the loan, and of all charges due in respect thereof, and of all expenses involved by the attachment and subsequent proceedings.

19. The attachment of any toll, duty, rate, fund or any property held as security for any loan under this Act shall be made by a notice addressed to the Commissioners prohibiting the collection of the proceeds of such toll, duty, rate, or fund, or suspending the management of such property by the Commissioners, and vesting the administration thereof in such officer as the Lieutenant-Governor of Bengal may appoint. This notice shall be published in the *Calcutta Gazette*, and otherwise as may be directed by the Lieutenant-Governor of Bengal within the local limits of the Commissioners. The moneys collected or received under such attachment shall be paid into the Government treasury, and the accounts of such moneys shall be prepared in such form as the Lieutenant-Governor of Bengal may, on the report of the Accountant-General, from time to time direct. A copy of such accounts shall be published in the *Calcutta Gazette*, and shall, if the Governor-General in Council so direct, be submitted to him.

20. The Lieutenant-Governor of Bengal may, on the recommendation of the Commissioners, from time to time make such bye-laws consistent with this Act and with the Indian Ports Act, 1875, as he may think necessary for any of the following purposes (that is to say):—

(a) for regulating, declaring and defining the wharves, quays, stages, jetties and piers on and from which goods shall be landed from, and shipped in, vessels within the port;

(b) for the safe and convenient use of such wharves, quays, stages, jetties and piers, and of landing-places, tramways, warehouses, sheds and other works in and adjoining the same;

(c) for regulating the reception and removal of goods within and from the premises of the Commissioners, and for declaring the procedure to be followed for taking charge of goods which may have been damaged before landing, or may be alleged to be so damaged;

(d) for the mode of payment of tolls, charges, dues, and rates levied under this Act;

(e) for the removal of wrecks from the port or the river, and keeping clean the port, the river, the bank of the river, and the works of the Commissioners, and for preventing filth and rubbish being thrown therein or thereon;

(f) for otherwise carrying out the purposes of this Act;

and may from time to time, on the recommendation aforesaid, vary, alter or revoke any such bye-law so made by him.

Previous to the making, alteration or revocation of any such bye-law the recommendation of the Commissioners in respect thereof shall be published for three weeks successively in the *Calcutta Gazette*.

21. To section 39 (2) of Bengal Act V of 1870 the following words shall be added, that is to say:—

“or carried; such tramways with the previous sanction of the Governor-General in Council, to be worked by locomotive engines or other motive power drawing or propelling carriages and wagons for the conveyance of goods therein;”

and the said section shall be read and construed as if the said words had been originally therein inserted.

(SCHEDULE referred to in section 16).

FORM OF DEBENTURE.

The Commissioners for making Improvements in the Port of Calcutta.

The 18

No.

By virtue of the Act No. IV of 1880 of the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations, entitled “the Calcutta Port Improvement Act Amendment Act,” we, the Commissioners for making Improvements in the port of Calcutta, in consideration of the sum of rupees paid to us by *A B* of do hereby charge all the property vested in or acquired by us under the said Act (except as provided by section 10 of the same), and the tolls, duties, and rates leviable under the said Act, (or if any portion of the property is to be charged state the portion charged) with the payment to the said *A B*, his executors, administrators, and assigns of the sum of , and interest thereon at the rate of per cent. per annum, which sum of is to be paid and payable to the said *A B*, his executors administrators, and assigns at the day of , with interest on the same at the rate of per cent. per annum, payable half-yearly at said place on every day of ; and we hereby undertake to pay the said sum of and interest aforesaid as above-mentioned.

(Signatures of the Chairman or Vice-Chairman and two Commissioners.)

W. E. H. FORSYTH,

Offg. Asst. Secy. to the Govt. of Bengal.

[Second Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 12th April 1880, and having received the assent of His Excellency the Governor-General on the 17th May 1880, is hereby promulgated for general information:—

Act No. V of 1880.

An Act to make Vaccination compulsory.

Whereas it is expedient to make vaccination compulsory in the Town, Port, and Suburbs of Calcutta, and in other towns and selected local areas in the territories administered by the Lieutenant-Governor of Bengal to which this Act may be hereafter extended: It is hereby enacted as follows:—

PRELIMINARY.

1. This Act may be called “The Bengal Vaccination Act, 1880;”

It applies in the first instance only to the Town, Port, and Suburbs of Calcutta as hereinafter defined;

But the Lieutenant-Governor may, by notification, published in the *Calcutta Gazette*, declare his intention to extend this Act, or any of its provisions, to any town or selected local area in the territories administered by him.

Any inhabitant of such town or area objecting to such extension may, within six weeks from the said publication, send his objection in writing to the Secretary to the Government of Bengal, and the Lieutenant-Governor shall take such objection into consideration.

When six weeks from the said publication have expired, the Lieutenant-Governor, if no such objections have been sent as aforesaid, or (where such objections have been so sent in) if in his opinion they are insufficient, may by like notification effect the proposed extension.

The Lieutenant-Governor shall cause the substance of any notification mentioned in this section to be proclaimed and notified within the town or area affected by the same, in the vernacular of such town or area, by such means, and in such manner as he may direct.

This Act shall come into force from the day on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General; but its operation in any place may at any time be suspended by the Lieutenant-Governor by notification in the said *Gazette*.

2. In this Act—unless there be something repugnant in the subject or context—

“Town of Calcutta” includes all places within the local limits of the ordinary original jurisdiction of the High Court of Judicature at Fort William in Bengal;

"Port of Calcutta" means the Port of Calcutta subject to the jurisdiction of the Commissioners appointed under Bengal Act V of 1870:

"Suburbs of Calcutta" means the suburbs defined by the notification of the 10th September 1877, and published in the *Calcutta Gazette* of the 26th September 1877:

"Parent" includes the father and mother of a legitimate child, and the mother of an illegitimate child:

"Guardian" means any person to whom the care, nurture, or custody of any child falls by law, or by natural right or recognized usage, or who has accepted or assumed the care, nurture, or custody of any child, or to whom the care or custody of any child has been entrusted by any authority lawfully authorized in that behalf:

"Public vaccinator" means any vaccinator appointed under this Act, or any person duly authorized to act for such public vaccinator:

"Medical practitioner" means any person duly qualified by a diploma, degree, or license, to practice in medicine or surgery, or specially licensed by the Lieutenant-Governor to practise vaccination and grant certificates under the provisions of this Act:

"Unprotected child" means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under the provisions of this Act to be insusceptible of vaccination:

"Unprotected person" includes a child who has no parent or guardian, and means a person who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under the provisions of this Act to be insusceptible of vaccination:

"Section" means a section of this Act.

VACCINATION OF CHILDREN.

3. The parent or guardian of every child born in any place to which this Act applies as above provided, or may hereafter be extended, shall within one year after the birth of such child; and

the parent or guardian of every unprotected child under the age of fourteen years brought to reside, whether temporarily or permanently, in such place aforesaid shall, within six months after such child's arrival in such place, or if the child be at the time of its arrival less than one year old, within one year and three months after its birth; and

the parent or guardian of every unprotected child living in such place at the date of this Act coming into force therein, and whose age at such date exceeds one year, but does not exceed fourteen years, shall, within six months from the said date,

take it, or cause it to be taken, to a public vaccine station to be vaccinated, or shall within such period as aforesaid cause it to be vaccinated by some medical practitioner or public vaccinator, and any public vaccinator to whom such child,

Public vaccinator bound to vaccinate all children brought to him. or to whom any child under the age of fourteen years, is brought for vaccination at such vaccine station, or who is requested to vaccinate such child elsewhere than at a public vaccine station, is hereby required, with all reasonable despatch, subject to the conditions hereinafter mentioned, to vaccinate such child.

4. At an appointed hour, upon the same day in the following week, after inspection.

performed by a public vaccinator or a medical practitioner, or on an earlier day if the public vaccinator or medical practitioner so desires, the parent or guardian shall cause the child to be inspected by the public vaccinator or medical practitioner by whom the operation was performed, that the result of the operation may be ascertained; and it shall be the duty of any public vaccinator who has vaccinated a child elsewhere than at a public vaccine station to visit the child at the time and for the purpose abovementioned, whether he is requested to do so or not.

In the event of the vaccination being unsuccessful, such parent or guardian shall, if the public vaccinator or medical practitioner so direct, cause the child to be forthwith again vaccinated, and subsequently inspected as on the previous occasion.

No fee shall be charged by a public vaccinator for anything done by him under this section.

5. If any public vaccinator or medical practitioner shall be of opinion that any child is not in a fit state to be vaccinated, he shall forthwith deliver to the parent or guardian of such child a certificate under his hand according to the form of schedule A hereto annexed, or to the like effect, that the child is then in a state unfit for vaccination.

The said certificate shall remain in force for three months only, but shall be renewable for successive periods of three months until a public vaccinator or medical practitioner shall deem the child to be in a fit state for vaccination, when the child shall, with all reasonable despatch, be vaccinated and a certificate of successful vaccination given in the form of Schedule C hereto annexed, according to the provisions of section 7, if warranted by the result.

6. If any public vaccinator or medical practitioner shall find that a child whom he has three times unsuccessfully vaccinated is insusceptible of successful vaccination, or that the child brought to him for vaccination has already been successfully inoculated or had the small-pox, he shall deliver to the parent or guardian of such child a certificate under his hand, according to the form of Schedule B hereto annexed, or to the like effect, and if the Superintendent of Vaccination be satisfied that such child is insusceptible of successful vaccination.

ation, he shall endorse such certificate, and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

7. Every public vaccinator or medical practitioner who shall have performed the operation of vaccination upon any child, and shall have ascertained that the same has been successful, shall deliver to the parent or guardian of such child a certificate according to the form of Schedule C hereto annexed, or to the like effect, certifying that the said child has been successfully vaccinated.

8. No fee or remuneration shall be charged by any public vaccinator to the parent or guardian of any child for any such certificate as aforesaid, nor for any vaccination done by him in pursuance of this Act at a public vaccine station:

But when a public vaccinator attends at the request of the parent or guardian elsewhere than at a public vaccine station for the purpose of vaccinating a child, he shall be paid a fee not exceeding eight annas, such fee to be devoted to the purpose in the next succeeding section mentioned.

9. All such fees shall, in Calcutta, be paid in by the public vaccinator to the credit of the Corporation of the Town of Calcutta, and be by them appropriated for the purposes of this Act. In places outside Calcutta such fees shall be appropriated as the Lieutenant-Governor may from time to time direct.

10. The Superintendent of Vaccination as hereinafter appointed or any of his assistants may from time to time inspect the vaccination of any child, whether performed by a public vaccinator or medical practitioner, and may, if he think fit, direct that such child be forthwith again vaccinated.

VACCINATION OF UNPROTECTED PERSONS.

11. Every unprotected person may, whenever the said Superintendent of Vaccination shall deem it advisable, be served with a notice in the form in Schedule D hereto annexed, requiring him within fifteen days after the service of the same to submit himself to a public vaccinator or medical practitioner to be vaccinated, and every such person shall within the said period submit himself to a public vaccinator or medical practitioner for vaccination.

12. The provisions of sections 8 to 10 (both inclusive) shall apply with the necessary alterations to the case of unprotected persons.

13. The powers conferred by sections 11 and 30 upon the said Superintendent of Vaccination may in the case of unprotected persons arriving in the Port of Calcutta be exercised by the Health Officer of the said Port immediately upon their arrival.

PROCEDURE APPLICABLE TO THE TOWN OF CALCUTTA ONLY.

Establishment.

14. For the purposes of this Act, the Corporation of the Town of Calcutta (hereinafter called the Corporation) shall, subject to the approval of the Lieutenant-Governor, appoint such stations for the performance of vaccination as they shall from time to time deem fit. Such stations shall be called "public vaccine stations."

The Corporation shall appoint such public vaccinators and vaccination establishments for carrying out the purpose of this Act as they shall from time to time deem fit.

The positions of the public vaccine stations fixed under the provisions of this section, and the days and hours of the public vaccinator's attendance at each station, shall be published from time to time in such manner as the Corporation may direct.

15. The Corporation may from time to time make such rules, consistent with this Act, as they may deem fit, for regulating the expenses of such vaccination establishments aforesaid, the payment of public vaccinators, and the realization and scale of fees under this Act.

16. The Health Officer for the Town of Calcutta shall be *ex-officio* Superintendent of Vaccination for the said Town. Such officer, subject to the orders of the Lieutenant-Governor, shall have a general control over all the proceedings of public vaccinators, and shall perform such duties in connection with public vaccination, in addition to those prescribed by this Act, as shall be required by the Lieutenant-Governor.

The Lieutenant-Governor may appoint, if necessary, one or more assistants to the Superintendent, and from time to time remove any such assistant.

17. The expenses of all vaccination establishments under this Act, and of the supply of lymph in Calcutta, shall, unless the Lieutenant-Governor otherwise direct, be defrayed by the Corporation.

Registration.

18. On the registration of the birth of any child under the provisions of Chapter X of "The Calcutta Municipal Consolidation Act, 1876," or of any other law for the time being in force, the Registrar shall deliver to the person giving information of such birth a printed notice in the form of Schedule E hereto annexed, or to the like effect, and such notice shall have attached thereto the several forms of certificates prescribed by this Act.

19. Every public vaccinator or medical practitioner, who gives to any parent or guardian a certificate in any of the forms of the said Schedules A, B, and C shall, within twenty-one days after giving the same,

transmit a duplicate thereof to the Registrar of Births of the district where the birth of the child on whose account such certificate was given has been registered; or if that be not known to him, or if the child was born out of the Town of Calcutta, or his birth has not been registered in the said Town, to the Registrar of the district within which the child was vaccinated or presented for vaccination.

20. The Registrar of Births shall keep a book in such form as may from time to time be prescribed by the rules made under section 33, in which he shall enter minutes of the notices of vaccination given by him as herein required, and shall also register the duplicates of certificates transmitted to him as herein provided.

21. He shall also prepare and keep a duplicate of the Register of Births required to be kept by him under the provisions of "The Calcutta Municipal Consolidation Act, 1876," or of any other law for the time being in force, with such additional columns as shall from time to time be prescribed by the rules made under section 33, in which he shall record the date of every duplicate certificate in the form of the said Schedule B or Schedule C received by him concerning any child whose birth he has registered, and make an entry to the effect that the child has been vaccinated or is insusceptible of vaccination, as the case may be.

22. He shall also keep a Register of Postponed Vaccinations in the form of Schedule F hereto annexed, in which he shall record the name of every child concerning whom he receives a duplicate certificate in the form of the said Schedule A, together with the date of such duplicate certificate, and of each such successive duplicate certificate, if he receives more than one, and shall show the number and year of the entry, if any, in the Register of Births in which such child's birth has been registered.

23. Every Registrar shall transmit on or before the fifteenth of every month to the Superintendent of Vaccination a return, in such form as may from time to time be prescribed by the rules made under section 33, of all cases in which duplicate certificates have not been duly received by him in pursuance of the provisions of this Act during the last preceding month.

24. The Lieutenant-Governor may direct that the duties imposed on the Registrar of Births under sections 19, 20, 21, 22, and 23, shall be performed by any other person appointed by the Lieutenant-Governor.

PROCEDURE APPLICABLE OUTSIDE THE TOWN OF CALCUTTA.

25. In any municipality other than the Town of Calcutta, and in any local area to which this Act may hereafter be extended, the Registrar of the District may exercise all or any of the powers by this Act conferred upon the Corporation;

and the Civil Surgeon of the district or such other officer as the Lieutenant-Governor may from time to time appoint in that behalf shall exercise the powers and perform the duties by this Act assigned to the Superintendent of Vaccination.

PROSECUTIONS AND OFFENCES.

26. If the Superintendent of Vaccination shall notify in writing to a Magistrate that he has reason to believe from the statement of an informant or otherwise that any child under the age of fourteen years is an unprotected child, and that he has given notice to the parent or guardian of such child to procure its being vaccinated, and that the said notice has been disregarded, such Magistrate may summon such parent or guardian to appear with the child before him; and if the Magistrate shall find, after such enquiry as he shall deem necessary, that the child is an unprotected child, he may, whether the child has been produced or not, make an order directing such child to be vaccinated within a certain time. If the child is at any time produced before him the Magistrate may, unless the child is certified under section 5 to be in a state unfit for vaccination, order it to be vaccinated forthwith in his presence, and in that case may punish such parent or guardian for any recusancy under this clause with fine which shall not exceed Rs. 5.

If at the expiration of the time appointed by the Magistrate the child shall not have been vaccinated, or shall not be shown to be then unfit to be vaccinated, or to be insusceptible of vaccination, the person upon whom such order shall have been made shall, unless he can show some reasonable ground for his omission to carry the order into effect, be punished with fine which may extend to fifty rupees;

Provided that if the Magistrate shall be of opinion that the person is improperly brought before him, and shall refuse to make an order for the vaccination of the child, he may direct the said Superintendent to disclose the name of his informant, if any, and may order such informant to pay to such person such sum of money as the Magistrate shall consider a fair compensation for expenses and loss of time in attending before him;

Provided also that nothing in this section shall be held to compel the production before a Magistrate of any female child above the age of eight years.

27. If any parent or guardian intentionally omits to produce a child whom he has been summoned to produce under the last preceding section, he shall be liable to fine which may extend to Rs. 100, and to a further fine of Rs. 25 for every day during which the offence continues;

Provided that the aggregate amount of fine for such offence shall not exceed Rs. 1,000.

28. Whoever, in contravention of this Act, (a) neglects without reasonable excuse to submit himself within 15 days after the service on him of the notice prescribed by section

and of Superintendent of Vaccination by Civil Surgeon.

Magistrate may make an order for the vaccination of any unprotected child under 14 years.

and also a duplicate Register of Births, with entries concerning vaccination,

and also a Register of Postponed Vaccinations.

Transmission of returns to Superintendent.

Lieutenant-Governor may direct any person to perform duties of Registrar.

Powers of Corporation may be exercised in mofussil by Magistrate of the district;

Penalty for disobedience of such order.

Proviso for costs to person improperly summoned.

Penalty for not producing a child.

Penalty for neglect to be vaccinated.

11 to a public vaccinator or medical practitioner to be vaccinated, or after vaccination to be inspected, or

Penalty for neglect to take child to be vaccinated, &c.

vaccination to be inspected, or

(c) neglects to fill up and sign and give to any person or to the parent or guardian of any child any certificate which such person, parent or guardian is entitled to receive from him, or to transmit a duplicate of the same to the Registrar of Births,

shall be punished for each such offence with fine which may extend to fifty rupees.

No prosecution under this section shall be instituted after the expiry of twelve months from the date on which the offence has been committed.

29. Whoever wilfully signs or makes, or procures the signing or making of, a false certificate or duplicate certificate under this Act, shall be punished with imprisonment of either description, within the meaning of the Indian Penal Code, for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Prosecutions to be instituted by Lieutenant-Governor or Superintendent of Vaccination.

30. All offences under this Act shall be cognizable by a Magistrate, subject to the provisions of any law for the time being in force for the trial of offences, but no complaint of any such offences shall be entertained unless the prosecution be instituted by order of, or under authority from, the Lieutenant-Governor or the Superintendent of Vaccination.

31. In any prosecution for neglect to procure the vaccination of a child, it shall not be necessary in support thereof to prove that the defendant had received notice from the Registrar or any other officer of the requirements of the law in this respect; but if the defendant produce any such certificate as hereinbefore described, or the duplicate of the Register of Births or the Register of Postponed Vaccinations kept by the Registrar as hereinbefore provided, in which such certificate shall be duly entered, the same shall be a sufficient defence for him, except in regard to the certificate according to the form of the said Schedule A, when the time specified therein for the postponement of the vaccination shall have expired before the time when the information shall have been laid.

MISCELLANEOUS.

32. It shall be the duty of the Superintendent of Vaccination to show in an Annual Return the number of children successfully vaccinated, the number whose vaccination has been postponed, and the number certified to be insusceptible of successful vaccination during the year; and generally to fill up any forms that may be prescribed from time to time by the Lieutenant-Governor or the Corporation.

33. The Lieutenant-Governor may from time to time make rules or issue orders consistent with this Act—

Lieutenant-Governor to make rules.

(a) determining the qualifications to be required of public vaccinators;

(b) regulating the scale of fees to be paid outside the Town of Calcutta;

(c) regulating the gratuitous vaccination of such females as are by the custom of the country unable to attend at the public vaccine stations and are too poor to pay fees;

(d) providing for the supply of lymph;

(e) regulating the books and forms to be kept by the public vaccinators or by registrars, and also such forms as shall be required for the signature of medical practitioners under the provisions of this Act; and generally

(f) for the guidance of public vaccinators and others in all matters connected with the working of this Act.

All such rules or orders shall be published in the *Calcutta Gazette*.

SCHEDULE A.

(See Section 5.)

I, the undersigned, hereby certify that in my opinion, the child of, resident at, is not now in a fit and proper state to be vaccinated, and I do hereby recommend that the vaccination be postponed for the period of three months from this date.—Dated this day of 18.

(Signature of Medical Practitioner or Public Vaccinator.)

SCHEDULE B.

(See Section 6.)

I, the undersigned, hereby certify that I have three times unsuccessfully vaccinated the child of, residing at (or that the child has already had small-pox, as the case may be), and I am of opinion that the said child is insusceptible of successful vaccination.—Dated this day of 18.

(Signature of Medical Practitioner or Public Vaccinator.)

(Endorsement by Superintendent of Vaccination.)

SCHEDULE C.

(See Section 7.)

I, the undersigned, hereby certify that the child of, age, resident at, has been successfully vaccinated by me.—Dated this day of 18.

(Signature of Medical Practitioner or Public Vaccinator.)

SCHEDULE D.

(See Section 11.)

To
Take notice that you are hereby required under the provisions of the Bengal Vaccination Act, 1880, to submit yourself to a public vaccinator or medical practitioner within fifteen days from the service of this notice for vaccination, and that in default of so doing you will be liable to a fine which may amount to Rs. 50.

The public vaccine station nearest your house is at. The days and hours for vaccination at that station are as follows:—
(Here insert the days and hours when the public vaccinator is in attendance.)

On your attending before a public vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine station in the town on the days and within the hours prescribed for public vaccination at such station, you will be vaccinated free of charge.

If you wish to be vaccinated at your own house the public vaccinator will attend there upon payment of a fee of

Dated the of 18 .
Superintendent of Vaccination,
or Civil Surgeon, as the case may be.

SCHEDULE E.

(See Section 18.)

To

(Here insert the name of the parent, guardian, or other person who gives information of the child's birth.)

Take notice that the child of (here enter the mother's name), whose birth has this day been registered, must be vaccinated under the provisions of the Bengal Vaccination Act, 1880, within one year from the date of its birth, under penalty.

The public vaccine station nearest to the house in which the child was born is at No. .
The days and hours for vaccination at that station are as follows:—

(Here insert the days and the hours when the Public Vaccinator is in attendance.)

On your taking, or causing the child to be taken, to the public vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine station in the city on

the days and within the hours prescribed for public vaccination at such station, it will be vaccinated free of charge.

If you wish to have the child vaccinated at your own house the public vaccinator will attend there upon payment of a fee of

You should be careful to have one of the annexed forms of certificates filled in by the public vaccinator, or if you employ a private medical practitioner to vaccinate the child, by such medical practitioner, and to keep the same in your possession. Any such certificate will be granted to you by a public vaccinator free of charge.

Dated the of 18 .

Registrar of Births.

SCHEDULE F.

(See Section 22.)

Register of Postponed Vaccinations for the District of

Consecutive number.	NAME OF CHILD.	BIRTH		Date of certificate of postponement.		Signature of Registrar.
		Year.	Number of entry in register.			
1	Ram Chunder Dass.	1878	12	1878. May ...	10	H. O.

W. E. H. FORSYTH,

Offg. Asst. Secy. to the Govt. of Bengal.



The Calcutta Gazette.

WEDNESDAY, JUNE 9, 1880.

PART III.

Acts of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 12th April 1880, and having received the assent of His Excellency the Governor-General on the 17th May 1880, is hereby promulgated for general information:—

ACT No. V OF 1880.

An Act to make Vaccination compulsory.

Whereas it is expedient to make vaccination compulsory in the Town Port, and Suburbs of Calcutta, and in other towns and selected local areas in the territories administered by the Lieutenant-Governor of Bengal to which this Act may be hereafter extended: It is hereby enacted as follows:—

PRELIMINARY.

Short title. 1. This Act may be called "The Bengal Vaccination Act, 1880;"

Extent. It applies in the first instance only to the Town, Port, and Suburbs of Calcutta as hereinafter defined;

Power to extend Act to towns and local areas. But the Lieutenant-Governor may, by notification, published in the *Calcutta Gazette*, declare his intention to extend this Act, or any of its provisions, to any town or selected local area in the territories administered by him.

Objection to such extension. Any inhabitant of such town or area objecting to such extension may, within six weeks from the said publication, send his objection in writing to the Secretary to the Government of Bengal, and the Lieutenant-Governor shall take such objection into consideration.

When six weeks from the said publication have expired, the Lieutenant-Governor, if no such objections have been sent as aforesaid, or (where such objections have been so sent in) if in his opinion they are insufficient, may by like notification effect the proposed extension.

Procedure thereon. The Lieutenant-Governor shall cause the substance of any notification mentioned in this section to be proclaimed and notified within the town or area affected by the same, in the vernacular of such town or area, by such means, and in such manner as he may direct.

Commencement. This Act shall come into force from the day on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General; but its operation in any place may at any time be suspended by the Lieutenant-Governor by notification in the said *Gazette*.

2. In this Act—unless there be something repugnant in the subject or context—

Interpretation clause. "Town of Calcutta" includes all places within the local limits of the ordinary original jurisdiction of the High Court of Judicature at Fort William in Bengal:

"Town of Calcutta." "Port of Calcutta" means the Port of Calcutta subject to the jurisdiction of the Commissioners appointed under Bengal Act V of 1870:

"Port of Calcutta." "Suburbs of Calcutta" means the suburbs defined by the notification of the 10th September 1877, and published in the *Calcutta Gazette* of the 26th September 1877:

"Suburbs of Calcutta." "Parent" includes the father and mother of a legitimate child, and the mother of an illegitimate child:

"Parent." "Guardian" means any person to whom the care, nurture, or custody of any child falls by law, or by

"Guardian."

natural right or recognized usage, or who has accepted or assumed the care, nurture, or custody of any child, or to whom the care or custody of any child has been entrusted by any authority lawfully authorized in that behalf:

"Public vaccinator" means any vaccinator appointed under this Act, or any person duly authorized to act for such public vaccinator:

"Medical practitioner" means any person duly qualified by a diploma, degree, or license, to practise in medicine or surgery, or specially licensed by the Lieutenant-Governor to practise vaccination and grant certificates under the provisions of this Act:

"Unprotected child" means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under the provisions of this Act to be insusceptible of vaccination:

"Unprotected person" includes a child who has no parent or guardian, and means a person who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under the provisions of this Act to be insusceptible of vaccination:

"Section" means a section of this Act.

VACCINATION OF CHILDREN.

3. The parent or guardian of every child born in any place to which this Act applies as above provided, or may hereafter be extended, shall within one year after the birth of such child; and

the parent or guardian of every unprotected child under the age of fourteen years brought to reside, whether temporarily or permanently, in such place aforesaid shall, within six months after such child's arrival in such place, or if the child be at the time of its arrival less than one year old, within one year and three months after its birth; and

the parent or guardian of every unprotected child living in such place at the date of this Act coming into force therein, and whose age at such date exceeds one year, but does not exceed fourteen years, shall, within six months from the said date,

take it, or cause it to be taken, to a public vaccine station to be vaccinated, or shall within such period as aforesaid cause it to be vaccinated by some medical practitioner or public vaccinator,

and any public vaccinator to whom such child, or to whom any child under the age of fourteen years, is brought for vaccination

at such vaccine station, or who is requested to vaccinate such child elsewhere than at a public vaccine station, is hereby required, with all reasonable despatch, subject to the conditions hereinafter mentioned, to vaccinate such child.

4. At an appointed hour, upon the same day in the following week, after inspection, vaccination shall have been performed by a public vaccinator or a medical practitioner, or on an earlier day if the public vaccinator or medical practitioner so desires, the parent or guardian shall cause the child to be inspected by the public vaccinator or medical practitioner by whom the operation was performed, that the result of the operation may be ascertained; and it shall be the duty of any public vaccinator who has vaccinated a child elsewhere than at a public vaccine station to visit the child at the time and for the purpose abovementioned, whether he is requested to do so or not.

In the event of the vaccination being unsuccessful, such parent or guardian shall, if the public vaccinator or medical practitioner so direct, cause the child to be forthwith again vaccinated, and subsequently inspected as on the previous occasion.

No fee shall be charged by a public vaccinator for anything done by him under this section.

5. If any public vaccinator or medical practitioner shall be of opinion that any child is not in a fit state to be vaccinated, he shall forthwith deliver to the parent or guardian of such child a certificate under his hand according to the form of schedule A hereto annexed, or to the like effect, that the child is then in a state unfit for vaccination.

The said certificate shall remain in force for three months only, but shall be renewable for successive periods of three months until a public vaccinator or medical practitioner shall deem the child to be in a fit state for vaccination, when the child shall, with all reasonable despatch, be vaccinated and a certificate of successful vaccination given in the form of Schedule C hereto annexed, according to the provisions of section 7, if warranted by the result.

6. If any public vaccinator or medical practitioner shall find that a child whom he has three times unsuccessfully vaccinated is insusceptible of successful vaccination, or that the child brought to him for vaccination has already been successfully inoculated or had the small-pox, he shall deliver to the parent or guardian of such child a certificate under his hand, according to the form of Schedule B hereto annexed, or to the like effect, and if the Superintendent of Vaccination be satisfied that such child is insusceptible of successful vaccination, he shall endorse such certificate, and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

7. Every public vaccinator or medical practitioner who shall have performed the operation of vaccination upon any child, and shall have ascertained that the same has been successful, shall deliver to the parent or guardian of such child a certificate according to the form of Schedule C hereto annexed, or to the like effect, certifying that the said child has been successfully vaccinated.

8. No fee or remuneration shall be charged

No fee to be charged for vaccination at a public vaccine station or for certificates.

by any public vaccinator to the parent or guardian of any child for any such certificate as aforesaid, nor for any vaccination done by him in pursuance of this Act at a public vaccine station:

But when a public vaccinator attends at the request of the parent or guardian elsewhere than at

a public vaccine station for the purpose of vaccinating a child, he shall be paid a fee not exceeding eight annas, such fee to be devoted to the purpose in the next succeeding section mentioned.

9. All such fees shall, in Calcutta, be paid in

Fees how to be appropriated.

by the public vaccinator to the credit of the Corporation of the Town of Calcutta, and be by them appropriated for the purposes of this Act. In places outside Calcutta such fees shall be appropriated as the Lieutenant-Governor may from time to time direct.

10. The Superintendent of Vaccination as

Superintendent of Vaccination or his assistants may inspect vaccination of child.

hereinafter appointed or any of his assistants may from time to time inspect the vaccination of any child, whether performed by a public vaccinator or medical practitioner, and may, if he think fit, direct that such child be forthwith again vaccinated.

VACCINATION OF UNPROTECTED PERSONS.

11. Every unprotected person may, whenever

Unprotected persons to be vaccinated.

the said Superintendent of Vaccination shall deem it advisable, be served with a notice in the form in Schedule D hereto annexed, requiring him within fifteen days after the service of the same to submit himself to a public vaccinator or medical practitioner to be vaccinated, and every such person shall within the said period submit himself to a public vaccinator or medical practitioner for vaccination.

12. The provisions of sections 3 to 10 (both

Former sections applicable.

inclusive) shall apply with the necessary alterations to the case of unprotected persons.

13. The powers conferred by sections 11 and

Health Officer of Port may cause vaccination of unprotected persons on their arrival.

30 upon the said Superintendent of Vaccination may in the case of unprotected persons arriving in the Port of Calcutta be exercised by the Health Officer of the said Port immediately upon their arrival.

PROCEDURE APPLICABLE TO THE TOWN OF CALCUTTA ONLY.

Establishment.

14. For the purposes of this Act, the Corpora-

Public vaccine stations.

tion of the Town of Calcutta (hereinafter called the Corporation) shall, subject to the approval of the Lieutenant-Governor, appoint such stations for the performance of vaccination as they shall from time to time deem fit. Such stations shall be called "public vaccine stations."

The Corporation shall appoint such public

Appointment of public vaccinators, &c.

vaccinators and vaccination establishments for carrying out the purpose of this Act as they shall from time to time deem fit.

The positions of the public vaccine stations

Notification of stations and hours of attendance.

fixed under the provisions of this section, and the days and hours of the public vaccinator's attendance at each station, shall be published from time to time in such manner as the Corporation may direct.

15. The Corporation may from time to time

Power of Corporation to make rules.

make such rules, consistent with this Act, as they may deem fit, for regulating the expenses of such vaccination establishments aforesaid, the payment of public vaccinators, and the realization and scale of fees under this Act.

16. The Health Officer for the Town of Calcutta

Superintendent of Vaccination.

shall be *ex-officio* Superintendent of Vaccination for the said Town. Such officer, subject to the orders of the Lieutenant-Governor, shall have a general control over all the proceedings of public vaccinators, and shall perform such duties in connection with public vaccination, in addition to those prescribed by this Act, as shall be required by the Lieutenant-Governor.

The Lieutenant-Governor may appoint, if

Assistant Superintendents.

necessary, one or more assistants to the Superintendent, and from time to time remove any such assistant.

17. The expenses of all vaccination establish-

Expenses of establishments to be a charge on the Corporation.

ments under this Act, and of the supply of lymph in Calcutta, shall, unless the Lieutenant-Governor otherwise direct, be defrayed by the Corporation.

Registration.

18. On the registration of the birth of any

Registrar of Births to give notice of the requirement of vaccination.

child under the provisions of Chapter X of "The Calcutta Municipal Consolidation Act, 1876," or of any other law for the time being in force, the Registrar shall deliver to the person giving information of such birth a printed notice in the form of Schedule E hereto annexed, or to the like effect, and such notice shall have attached thereto the several forms of certificates prescribed by this Act.

19. Every public vaccinator or medical practi-

Duplicates of all certificates to be transmitted to the Registrar.

tioner, who gives to any parent or guardian a certificate in any of the forms of the said Schedules A, B, and C shall, within twenty-one days after giving the same, transmit a duplicate thereof to the Registrar of Births of the district where the birth of the child on whose account such certificate was given has been registered; or if that be not known to him, or if the child was born out of the Town of Calcutta, or his birth has not been registered in the said Town, to the Registrar of the district within which the child was vaccinated or presented for vaccination.

20. The Registrar of Births shall keep a book

Registrar to keep a Vaccination Notice and Certificate Book,

in such form as may from time to time be prescribed by the rules made under section 33, in which he shall enter minutes of the notices of vaccination given by him as herein required, and shall also register the duplicates of certificates transmitted to him as herein provided.

21. He shall also prepare and keep a duplicate of the Register of Births required to be kept by him under the provisions of "The Calcutta Municipal Consolidation Act, 1876," or of any other law for the time being in force, with such additional columns as shall from time to time be prescribed by the rules made under section 33, in which he shall record the date of every duplicate certificate in the form of the said Schedule B or Schedule C received by him concerning any child whose birth he has registered, and make an entry to the effect that the child has been vaccinated or is insusceptible of vaccination, as the case may be.

22. He shall also keep a Register of Postponed Vaccinations in the form of Schedule F hereto annexed, in which he shall record the name of every child concerning whom he receives a duplicate certificate in the form of the said Schedule A, together with the date of such duplicate certificate, and of each such successive duplicate certificate, if he receives more than one, and shall show the number and year of the entry, if any, in the Register of Births in which such child's birth has been registered.

23. Every Registrar shall transmit on or before the fifteenth of every month to the Superintendent of Vaccination a return, in such form as may from time to time be prescribed by the rules made under section 33, of all cases in which duplicate certificates have not been duly received by him in pursuance of the provisions of this Act during the last preceding month.

24. The Lieutenant-Governor may direct that the duties imposed on the Registrar of Births under sections 19, 20, 21, 22, and 23, shall be performed by any other person appointed by the Lieutenant-Governor.

PROCEDURE APPLICABLE OUTSIDE THE TOWN OF CALCUTTA.

25. In any municipality other than the Town of Calcutta, and in any local area to which this Act may hereafter be extended, the Magistrate of the District may exercise all or any of the powers by this Act conferred upon the Corporation; and the Civil Surgeon of the district or such other officer as the Lieutenant-Governor may from time to time appoint in that behalf shall exercise the powers and perform the duties by this Act assigned to the Superintendent of Vaccination.

PROSECUTIONS AND OFFENCES.

26. If the Superintendent of Vaccination shall notify in writing to a Magistrate that he has reason to believe from the statement of an informant or otherwise that any child under the age of fourteen years is an unprotected child, and that he has given notice to the parent or guardian of such child to procure its being vaccinated, and that the said notice has been disregarded, such Magistrate may summon such parent or guardian to appear with the child before him; and if the Magistrate shall

find, after such enquiry as he shall deem necessary, that the child is an unprotected child, he may, whether the child has been produced or not, make an order directing such child to be vaccinated within a certain time. If the child is at any time produced before him the Magistrate may, unless the child is certified under section 5 to be in a state unfit for vaccination, order it to be vaccinated forthwith in his presence, and in that case may punish such parent or guardian for any recusancy under this clause with fine which shall not exceed Rs. 5.

If at the expiration of the time appointed by the Magistrate the child shall not have been vaccinated, or shall not be shown to be then unfit to be vaccinated, or to be insusceptible of vaccination, the person upon whom such order shall have been made shall, unless he can show some reasonable ground for his omission to carry the order into effect, be punished with fine which may extend to fifty rupees;

Provided that if the Magistrate shall be of opinion that the person is improperly brought before him, and shall refuse to make an order for the vaccination of the child, he may direct the said Superintendent to disclose the name of his informant, if any, and may order such informant to pay to such person such sum of money as the Magistrate shall consider a fair compensation for expenses and loss of time in attending before him;

Provided also that nothing in this section shall be held to compel the production before a Magistrate of any female child above the age of eight years.

27. If any parent or guardian intentionally omits to produce a child whom he has been summoned to produce under the last preceding section, he shall be liable to fine which may extend to Rs. 100, and to a further fine of Rs. 25 for every day during which the offence continues;

Provided that the aggregate amount of fine for such offence shall not exceed Rs. 1,000.

28. Whoever, in contravention of this Act, (a) neglects without reasonable excuse to submit himself within 15 days after the service on him of the notice prescribed by section 11 to a public vaccinator or medical practitioner to be vaccinated, or after vaccination to be inspected, or

(b) neglects without reasonable excuse to take, or cause a child to be taken to be vaccinated, or after vaccination to be inspected, or

(c) neglects to fill up and sign and give to any person or to the parent or guardian of any child any certificate which such person, parent or guardian is entitled to receive from him, or to transmit a duplicate of the same to the Registrar of Births,

shall be punished for each such offence with fine which may extend to fifty rupees.

No prosecution under this section shall be instituted after the expiry of twelve months from the date on which the offence has been committed.

29. Whoever wilfully signs or makes, or procures the signing or making of, a false certificate or duplicate certificate under this Act, shall be punished with imprisonment of either description, within the meaning of the Indian Penal Code, for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

30. All offences under this Act shall be cognizable by a Magistrate, subject to the provisions of any law for the time being in force for the trial of offences, but no complaint of any such offences shall be entertained unless the prosecution be instituted by order of, or under authority from, the Lieutenant Governor or the Superintendent of Vaccination.

31. In any prosecution for neglect to procure the vaccination of a child, it shall not be necessary in support thereof to prove that the defendant had received notice from the Registrar or any other officer of the requirements of the law in this respect; but if the defendant produce any such certificate as hereinbefore described, or the duplicate of the Register of Births or the Register of Postponed Vaccinations kept by the Registrar as thereinbefore provided, in which such certificate shall be duly entered, the same shall be a sufficient defence for him, except in regard to the certificate according to the form of the said Schedule A, when the time specified therein for the postponement of the vaccination shall have expired before the time when the information shall have been laid.

MISCELLANEOUS.

32. It shall be the duty of the Superintendent of Vaccination to show in an Annual Return the number of children successfully vaccinated, the number whose vaccination has been postponed, and the number certified to be insusceptible of successful vaccination during the year; and generally to fill up any forms that may be prescribed from time to time by the Lieutenant-Governor or the Corporation.

33. The Lieutenant-Governor may from time to time make rules or issue orders consistent with this Act—

Annual return to be made of the number of children vaccinated, &c

- (a) determining the qualifications to be required of public vaccinators;
- (b) regulating the scale of fees to be paid outside the Town of Calcutta;
- (c) regulating the gratuitous vaccination of such females as are by the custom of the country unable to attend at the public vaccine stations and are too poor to pay fees;
- (d) providing for the supply of lymph;
- (e) regulating the books and forms to be kept by the public vaccinators or by registrars, and also such forms as shall be required for the signature of medical practitioners under the provisions of this Act; and generally
- (f) for the guidance of public vaccinators and others in all matters connected with the working of this Act.

All such rules or orders shall be published in the *Calcutta Gazette*.

SCHEDULE A.

(See Section 5.)

I, the undersigned, hereby certify that in my opinion , the child of , is not now in a fit and proper state to be vaccinated, and I do hereby recommend that the vaccination be postponed for the period of three months from this date.—Dated this day of 18 .

(Signature of Medical Practitioner or Public Vaccinator.)

SCHEDULE B.

(See Section 6.)

I, the undersigned, hereby certify that I have three times unsuccessfully vaccinated , the child of , residing at (or that the child has already had small-pox, as the case may be), and I am of opinion that the said child is insusceptible of successful vaccination.—Dated this day of 18 .

(Signature of Medical Practitioner or Public Vaccinator.)

(Endorsement by Superintendent of Vaccination.)

SCHEDULE C.

(See Section 7.)

I, the undersigned, hereby certify that the child of , age , resident at , has been successfully vaccinated by me.—Dated this day of 18 .

(Signature of Medical Practitioner or Public Vaccinator)

SCHEDULE D.

(See Section 11.)

To

Take notice that you are hereby required under the provisions of the Bengal Vaccination Act, 1880, to submit yourself to a public vaccinator or medical practitioner within fifteen days from the service of this notice for vaccination, and that in default of so doing you will be liable to a fine which may amount to Rs. 50.

The public vaccine station nearest your house is at . The days and hours for vaccination at that station are as follows:—

(Here insert the days and hours when the public vaccinator is in attendance.)

On your attending before a public vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine station in the town on the days and within the hours prescribed for public vaccination at such station, you will be vaccinated free of charge.

If you wish to be vaccinated at your own house the public vaccinator will attend there upon payment of a fee of

Dated the of 18 .

Superintendent of Vaccination,
or Civil Surgeon, as the case may be.

SCHEDULE E.

(See Section 18.)

To

(Here insert the name of the parent, guardian, or other person who gives information of the child's birth.)

Take notice that the child of (here enter the mother's name), whose birth has this day been

registered, must be vaccinated under the provisions of the Bengal Vaccination Act, 1880, within one year from the date of its birth, under penalty.

The public vaccine station nearest to the house in which the child was born is at No.

The days and hours for vaccination at that station are as follows :—

(Here insert the days and the hours when the Public Vaccinator is in attendance.)

On your taking, or causing the child to be taken, to the public vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine station in the city on the days and within the hours prescribed for public vaccination at such station, it will be vaccinated free of charge.

If you wish to have the child vaccinated at your own house the public vaccinator will attend there upon payment of a fee of

You should be careful to have one of the annexed forms of certificates filled in by the public vaccinator, or if you employ a private medical practitioner to vaccinate the child, by such medical practitioner, and to keep the same in your possession. Any such certificate will be granted to you by a public vaccinator free of charge.

Dated the of 18 .
Registrar of Births.

SCHEDULE F.

(See Section 22.)

Register of Postponed Vaccinations for the District of

Consecutive number.	NAME OF CHILD.	BIRTH.		Date of certificate of postponement.		Signature of Registrar.
		Year.	Number of entry in register.			
1	Ram Chunder Dass.	1878	12	May ...	10	H. O.

W. E. H. FORSYTH,

Offg. Asst. Secy. to the Govt. of Bengal.

[First Publication.]

ACT No. VI OF 1880.

THE BENGAL DRAINAGE ACT, 1880.

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THE following Act, passed by the Lieutenant-Governor of Bengal in Council received the assent of His Honor on the 22nd April 1880, and having received the assent of His Excellency the Governor General on the 28th May 1880, is hereby promulgated for general information:—

ACT No. VI OF 1880.

An Act to provide for the Drainage and Improvement of Lands.

WHEREAS it is expedient that provision should be made for the better drainage and improvement of lands in the territories administered by the Lieutenant-Governor of Bengal: It is hereby enacted as follows:—

PRELIMINARY.

1. This Act may be called "The Bengal Drainage Act, 1880:—"

It extends to all the territories for the time being under the administration of the Lieutenant-Governor of Bengal;

and it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

2. Bengal Act V of 1871 (*The Hughli and Burdwan Drainage Act*) shall be repealed on and from the date upon which this Act comes into force, but, subject to the provisions of this Act, this repeal shall not affect the past operation of such Act, or anything duly done or suffered, or any right, privilege, obligation or liability, acquired, accrued or incurred thereunder.

3. In this Act, unless there be something repugnant in the subject or context—
"The Collector" means the officer in charge of the revenue jurisdiction of the district within which the lands which form the subject of a scheme under this Act, or the greater portion of such lands, are situate. If any doubt arises as to whether the greater portion of the lands is situate within one of two or more districts, the Board of Revenue shall decide the point, and such decision shall be final:

"The Commissioners" mean the Drainage Commissioners to be appointed under this Act:

"Estate" means land included under one entry in the General Registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law for the time being in force by any Collector of a district, or a share of, or interest in, such land:

"Proprietor" means a person who as owner is solely or jointly in possession of an estate:

"Tenure" means—
(1) a permanent rent-paying interest in land immediately subordinate to that of a proprietor, and superior to that of a ryot, extending to not less than one hundred standard bighas affected or to be affected by any works under this Act;

(2) a permanent revenue-free or rent-free interest in land affected or to be affected by any works under this Act, when there exists no rent-paying interest in the same land between the proprietary interest in the estate and such revenue-free or rent-free interest :

"Undertenure" means—

(1) a permanent rent-paying interest in land subordinate to that of a tenure-holder and superior to that of a ryot, extending to not less than one hundred standard bighas affected or to be affected by any works under this Act ;

(2) a revenue-free or rent-free interest in land affected or to be affected by any works under this Act, when there exists a rent-paying interest in the same land between the proprietary interest in the estate and such revenue-free or rent-free interest :

EXPLANATION.—The term "permanent" is used with reference to the tenure or undertenure itself, and not with reference to the person who happens to hold such tenure or undertenure for the time being. A tenure or undertenure is none the less permanent although held by a Hindú widow, a Sebait, or a person subject to the Mitakshara law.

"Landholder" and "Holder of Land." and "Landholder" and "Holder of land" mean—

(1) any person who as owner of an estate is solely or jointly in possession thereof ;

(2) any person who as owner of a tenure or undertenure is solely or jointly in possession thereof :

Where two or more persons are joint landholders, they shall be jointly and severally liable under this Act, except as is otherwise expressly provided herein :

"Reclaimed land" means land which was unfit for cultivation before the execution of any works under this Act, but which has been rendered productive by such works :

"Improved land" means land which was more or less fit for cultivation before the execution of any works under this Act, but of which the productive powers have been increased by such works :

"Part" and "Section" mean respectively a part and section of this Act.

PART I.

APPOINTMENT OF COMMISSIONERS AND CONDUCT OF BUSINESS.

4. Whenever it appears expedient to the Lieutenant-Governor to carry out any scheme and plans for the drainage and improvement of any tract of land, the Lieutenant-Governor may appoint any number of persons not less than seven, of whom the majority shall be qualified by being holders of lands to be affected by the works mentioned in the said scheme and plans, or managers on behalf of such holders, to be Drainage Commissioners for carrying out the provisions of this Act ; and the Lieutenant-Governor may from time to time remove, or accept the resignation of, any such Commissioner, or may add to the number of the Commissioners, and may appoint another person in the place of any such Commissioner dying,

resigning, being removed or ceasing to reside in the district in which such lands are situate, but so as that the majority of the Commissioners shall always be persons qualified as aforesaid.

No act done or proceeding taken by the Commissioners shall be invalid merely on the ground that at the time of doing such act or of taking such proceeding the majority of the Commissioners were not persons qualified as aforesaid.

5. The Lieutenant-Governor shall from time to time appoint one of the persons so appointed Commissioners as aforesaid to be Chairman of the Commissioners, and may at any time, if he see fit, revoke such appointment and appoint another of such persons to be Chairman. The Commissioners may sue and be sued in the name of their Chairman.

6. The Commissioners shall ordinarily meet for the transaction of business once at least in every quarter. Such meeting shall be held upon such day and at such hour as the Commissioners shall from time to time determine. No business shall be transacted at any meeting unless at least three members are present at the commencement and close of such business.

7. The Chairman of the Commissioners may, whenever he thinks fit, and shall, upon request made in writing by three of the Commissioners, call an extraordinary meeting of the Commissioners.

8. The Chairman shall preside at every meeting of the Commissioners, but in case of his absence at the time appointed for holding a meeting, the Commissioners present may choose one of their number to be President of such meeting.

9. (1)—All questions at any meeting, including the question of Transacting of business at meetings, adjourning such meeting, shall be decided by a majority of votes of the members present. In case of an equality of votes, the President for the time being of such meeting shall have a second or casting vote.

(2)—The Commissioners may delegate any of their powers to Committees consisting of such member or members of the body as they think fit. Any Committee so formed shall, in the exercise of the powers delegated, conform to any regulations that may be imposed on them by the Commissioners.

(3)—A Committee may elect a Chairman at their meetings. If no Chairman is elected, or if he is not present at the time appointed for holding any meeting, the members present shall choose one of their number to be Chairman of the same.

(4)—A Committee may meet and adjourn as they think proper. Questions at any meeting shall be determined by a majority of votes of the members present, and in case of an equal division of votes, the Chairman shall have a second or casting vote.

10. The Chairman of the Commissioners may by Power to appoint servants, and dismiss such servants and officers other than Engineers and their subor-

dinates, as may be required for the purposes of this Act, and he may control them as he shall see fit. There shall be paid to such servants and officers respectively such salaries as may appear to the Commissioners to be proper.

11. The Lieutenant-Governor may, when satisfied that the objects of their appointment have been fulfilled, direct that the powers and functions of the Commissioners shall cease.

When objects of their appointment fulfilled, Lieutenant-Governor may direct their powers and functions to cease.

PART II.

DRAINAGE SCHEME.

12. The Commissioners shall within three months after their appointment cause a notification in the language of the district to be published by beat of drum in every village in which may be situate any portion of the lands to be affected by the works proposed in such scheme and plans. Every such notification shall be in the form in Schedule (A) hereto annexed, and shall further be published by posting the same at the office of the Collector and of the Sub-divisional Officer and in some conspicuous part of the village aforesaid, and at the Court of the Munsif within whose jurisdiction, and at the thana within the limits of which, such village is situate.

13. After the date named in such notification, a list of the persons who may have given their assent or made any objection in writing in accordance with such notification shall be prepared and published in the manner provided in section 12 for the information of all concerned. Such list shall contain a specification of the land in respect of which such persons claim to vote as landholders, and of the titles in virtue of which they claim to vote respectively: and there shall be appended thereto a notice that objections to the right of voting so claimed must be lodged with the Commissioners within one month after the publication of the said list.

14. (1)—The Commissioners may, at some meeting to be held not less than one month after such list has been published under the provisions of section 13, proceed to ascertain whether the holders of half of the lands to be reclaimed or improved have assented in writing to the adoption of the scheme. For the purpose of so ascertaining, the Commissioners shall take into account the vote of not more than one landholder in respect of any one portion of the area affected, and, whenever more than one landholder shall have given his vote in respect of the same portion of such area, the Commissioners shall take into account the vote of the landholder who holds the lowest interest in respect of such area, and shall not take into account, in respect of such area, the vote of any superior landholder who may have voted.

Example

A gives his vote as proprietor of 5,000 bighas;
B as patnidar of 2,000 bighas included in A's proprietary of 5,000 bighas;
C as mokarridar of 100 bighas included in B's patni;

D as holding a permanent jama of 500 bighas included in A's proprietary of 5,000 bighas, but not in B's patni of 2,000 bighas.

The Commissioners shall take into account the votes of the respective landholders in respect of the following areas:—

D for	...	500 bighas.
C "	...	100 "
B "	(2,000—100=)	1,900 "
A "	(5,000—2,000—500=)	2,500 "
Total...		5,000 "

(2)—One vote only shall be allowed in respect of an estate, tenure or undertenure belonging to two or more co-sharers. In order to ascertain whether this vote shall be taken as assenting or objecting to the adoption of the scheme, regard shall be had to the votes of the co-sharers individually, and account shall be taken of those only who actually vote. If the majority assent, a vote of assent shall be deemed to have been given in respect of the estate, tenure or undertenure. If the majority object, a vote of objection shall be deemed to have been given. If the number assenting and the number objecting are equal, no vote shall be deemed to have been given in respect of such estate, tenure or undertenure.

15. The Commissioners may in their discretion refuse to take into account the vote of any person who, after being required to do so, fails to specify the extent of land held by him, and the nature of the interest which he has in such land.

16. (1)—Whenever the right of any person to vote as a holder of any land shall be disputed, the Commissioners shall determine whether the vote of such person shall or shall not be accepted in respect of such land, and their determination shall be final for the purposes of section 17; provided that any "recorded proprietor," as defined by section 3 of "The Land Registration Act, 1876," shall be entitled to vote in respect of any property of which he is the recorded proprietor.

(2)—In the case of a landholder who is a proprietor disqualified to manage his own property under the provisions of "The Court of Wards' Act, 1879," or any similar law for the time being in force, or who is a minor or a lunatic, the right to vote shall be exercised by any manager of the property of such disqualified proprietor or minor or lunatic, appointed by the Court of Wards or by the Civil Court under the provisions of any law for the time being in force, or, where no such manager has been appointed, by any person who, in the opinion of the Commissioners, duly represents the interests of such minor or lunatic.

(3)—Where the holder of any land cannot be found, such land shall be altogether excluded in any computation that may be made in order to determine whether the landholders of not less than half of the area to be reclaimed or improved have assented to the adoption of the scheme.

Vote for estate, tenure, &c., held by two or more co-sharers.

Persons voting to specify the extent of their lands.

Commissioners to decide who is entitled to vote.

Vote for property held by a minor or lunatic.

Case of landholder not found.

17. If the landholders of not less than half of the area to be reclaimed or improved, ascertained as above provided, shall have assented to the adoption of the scheme, and not otherwise, the Commissioners shall proceed to consider such scheme, together with the plans and estimates for carrying out the same, and shall further consider such objections as have been made thereto; and may adopt such schemes, plans, and estimates, or may alter and modify the same, and adopt the scheme, plans, and estimates so altered or modified, or may disapprove or reject the same.

18. If the landholders of half of the area to be reclaimed and improved do not assent to such scheme, but the landholders of half of the area to be affected by some portion of such scheme assent thereto, the Commissioners may resubmit such portion of the scheme to the Lieutenant-Governor, and may, with his approval, proceed thereupon in manner aforesaid.

19. If the Commissioners adopt such scheme, plans and estimates, or any modification or alteration thereof, have been adopted by them, cause the same to be laid before the Lieutenant-Governor, and the Lieutenant-Governor may sanction the scheme, plans and estimates so adopted, or any portion thereof, as to him shall seem fit.

20. (1)—The Commissioners may, with the previous assent of the Lieutenant-Governor, at any time reconsider any scheme, plans or estimates adopted by them, and add to, alter or modify the same;

and when any addition, alteration or modification has been adopted by them, they shall cause the same to be laid before the Lieutenant-Governor: the Lieutenant-Governor may sanction such addition, alteration or modification, or any portion thereof, as he may think fit, and thenceforth the provisions of this Act shall apply to such addition, alteration or modification, as if it had been a portion of the original scheme, plans or estimates; and every such addition, alteration or modification, after it has been adopted, shall be published by the Commissioners as to them shall seem fit.

No such addition, alteration or modification shall be adopted at a meeting at which the majority of the members present are not qualified as provided by section 4.

(2)—No addition, alteration or modification under clause (1) to or of any scheme which affects any lands other than those which would be affected by some scheme theretofore published, shall be adopted by the Commissioners until the same has been published for not less than fifteen days, according to the provisions of section 12, in every village in which may be situate any portion of the lands to be affected by such addition, alteration or modification; nor shall any such addition, alteration or modification be adopted unless the landholders of not

less than half the entire area to be affected by the scheme as so added to, altered or modified, assent to the same.

21. When the Lieutenant-Governor has sanctioned any scheme, plans and estimates as aforesaid, or some portion thereof, he may direct proceedings to be taken under the provisions of "The Land Acquisition Act, 1870," or any other law for the time being in force for the acquisition of land for public purposes, in order to obtain any land likely to be required for the works mentioned in such sanctioned scheme, plans and estimates, or any portion thereof.

22. The Lieutenant-Governor may, if he thinks fit, order the works specified in such sanctioned scheme, plans and estimate, or portion thereof, to be executed by an officer to be thereunto appointed by the Lieutenant-Governor, and may, subject to the sanction of the Governor-General of India in Council, order the advance from the Public Funds of such sum of money as may be required for the purpose of making such improvements, and such officer may cause the works specified in such scheme and plans to be executed, and for that purpose may by himself, his agents and workmen enter into or upon any lands and perform such works thereupon as may be required.

23. The Lieutenant-Governor may at any time after the said works have been commenced by an order sanction any alteration or modification of such scheme or plan suggested to him by the officer in charge of such works, if after communication with the Commissioners it shall appear to him that by such alteration or modification the general character and scope of the scheme will not be altered, nor greater expenditure incurred thereon, than would be incurred in the scheme as originally sanctioned; and after such sanction, such alteration or modification shall be taken to be a portion of the scheme adopted by the Commissioners in substitution for the portion of such scheme thereby altered, and every such alteration or modification shall be published by the Commissioners as to them shall seem fit.

24. (1)—Any person who alleges that damage has been caused to his property by any scheme or works commenced or carried out under this Act may, at any time before the expiry of the three years mentioned in clause (1) of section 28, prefer to the Commissioners a claim for compensation in respect of such damage actually caused, and of all future damage likely to be caused to such property by such scheme or works.

The Commissioners shall duly consider any such claim; and if they are satisfied that such damage has been caused or is likely to be caused, they shall assess such compensation as to them appears fair and reasonable.

If such person agrees to accept the amount so assessed, the same shall be paid to him:

If he do not agree to accept such amount, the Commissioners shall

If half of landholders agree, Commissioners to consider the scheme submitted.

of the area to be reclaimed or improved, ascertained as above provided, shall have assented to the adoption of

Powers for the acquisition of land.

Power to proceed with portion of scheme.

Scheme approved by Commissioners to be laid before the Lieutenant-Governor.

Power to reconsider scheme and modify it.

Publication of modified scheme.

Lieutenant-Governor may order scheme to be carried out.

Power to Lieutenant-Governor to modify scheme.

Claims to compensation for damage caused in carrying out scheme or works.

Compensation to be assessed by the Commissioners.

Reference to Civil Court if amount assessed be not accepted.

make a reference to the Civil Court in the manner in which a Collector is empowered to make a reference by section 15 of "The Land Acquisition Act, 1870," and the provisions of Part III of the said Act shall apply to any reference so made.

(2)—When the persons interested in such property, to which damage has been caused as aforesaid agree to accept the amount of compensation assessed by the Commissioners, but a dispute arises as to the apportionment of the same or any part thereof, or when the amount of compensation has been settled by the Court on a reference under clause (1) of this section, and a similar dispute arises, the Commissioners shall refer such dispute to the decision of the Civil Court, and the provisions of Part IV of the said Land Acquisition Act shall apply to any reference so made.

(3)—When the amount of compensation assessed by the Commissioners does not exceed one thousand rupees, any reference made under the said clause (1) may be transferred by the Principal Civil Court of original jurisdiction of the district to any Subordinate Judge in the same district, and such Subordinate Judge shall have power to hear and dispose of the same; and any reference made under clause (2) of this section may be transferred by such Principal Civil Court to any Munsif in the same district, and such Munsif shall have power to hear and dispose of the same.

PART III.

EXPENDITURE AND APPORTIONMENT.

25. All amounts paid as compensation for any lands taken for the purposes of this Act, or for damage inflicted in carrying out any scheme or works under this Act, or as salaries of officers, servants, or establishments, or for surveys or valuations (whether antecedent or subsequent to the preparation of the scheme and plans), and all amounts otherwise duly expended in carrying out the purposes of this Act, shall be included in, and deemed to constitute the cost of, construction of the works, and may be defrayed by advances from the Public Funds as provided by section 22.

26. (1)—All such advances shall bear interest at the rate of five per centum per annum until recovered in the manner hereafter in this Act provided. All such interest, which falls due before the completion of the works is certified to the Commissioners as hereafter provided, shall, upon such completion being so certified, be added to the total amount of the principal sums advanced; and interest at the rate of five per centum per annum upon the total of such interest and principal shall thereafter be payable to the Collector half-yearly by the holders of the lands affected by the works.

(2)—It shall be the duty of the Commissioners to distribute the liability to pay such half-yearly interest amongst such landholders, as soon as the completion of the works has been certified to them, and to report the details of such distribution to the Collector.

(3)—In order to the distribution of such liability, the Commissioners shall have regard to the plans and estimates of the scheme and to such other information as may be supplied to them by the Officer in charge of such works, and shall distribute the liability in a general way, so that the share of the interest payable by the holders of each estate, tenure or undertenure from whom any sum is made payable shall be in proportion to the benefit to be derived by the lands of such holders, so far as the Commissioners can judge of such proportions.

(4)—Notices shall be served upon such holders setting forth the half-yearly amount of interest payable by them and the date upon which it is payable. Where two or more persons are joint holders of an estate, tenure or undertenure, service of notice under this clause on any one such person shall be deemed to be good and sufficient service on each and all of such persons. If such half-yearly amount be not paid upon such date, the Collector may proceed for its recovery according to the law for the time being in force for the recovery of Public Demands.

27. The Officer in charge of the said works shall, until the same shall be finally completed, once in every three months make a detailed report to the Commissioners of the progress of such works and the expenditure thereupon from the day up to which the next preceding report shall have been brought down; and the Examiner of Public Works Accounts to the Government of Bengal, or some other officer authorized in that behalf by the Lieutenant-Governor, shall from time to time certify the sums advanced in accordance with the provisions of section 25, and the dates of such advances, and every such certificate shall be final and conclusive evidence in a Civil Court or in any proceedings under this Act of the sums therein stated to have been advanced having been so advanced, and of the dates upon which they were respectively so advanced.

28. (1)—The Officer in charge of the works shall, as soon as they have been completed, certify such completion to the Commissioners; and the Commissioners shall, upon the expiry of three years from such completion being so certified to them, proceed to classify all the lands benefited by the works according to the degree of benefit conferred; and in such classification they shall distinguish the Improved lands from the Reclaimed lands:

It shall be lawful for the Commissioners at any time during such three years to make such inspections of the lands and such sur-

veys thereof, and otherwise to collect such information, as shall in their opinion conduce to the making of such classification, and of the apportionment hereinafter mentioned.

(2)—The Commissioners shall, after making such classification, proceed further to apportion the total cost of construction, together with the interest mentioned in section 26, upon the Improved lands and Reclaimed lands, and shall draw up a statement showing the amount payable to the Collector by each landholder—

(a) in respect of his Improved lands, if any; and

(b) in respect of his Reclaimed lands, if any.

In making this Apportionment the Commissioners shall, as far as may be possible, make payable in respect of each plot or field of Improved

Cost of construction with interest to be apportioned upon the Improved lands and Reclaimed lands.

land a sum not exceeding the amount of the increased capitalized value, which, in the opinion of the Commissioners,

has been conferred on such land by the works.

29. If upon the completion of the Apportionment under section 28 it shall be found that any landholder has, under the provisions of section 26, paid more or less interest than he would have been required to pay according to the proportions adopted in the apportionment under clause (2) of section 28, if such apportionment had then been in force, the Commissioners shall direct such refunds to be made or such additional amounts to be levied as shall be necessary to bring the payments of all the landholders concerned into conformity with such proportions.

30. Whenever any land, in respect of which any sum is apportioned as payable under the provisions of section 26 or 28, forms part of a tenure, or of a tenure and of an undertenure, it shall be lawful for the Commissioners to declare whether the holders of the estate, of the tenure, or of the undertenure, shall be deemed to be the landholders liable to pay to the Collector the sum apportioned as payable in respect of such land.

31. The total sum so made payable in respect of the Improved lands of any one landholder, and the total sum so made payable in respect of the Reclaimed lands of any one landholder, with interest upon such sums at five per centum per annum from the date of Apportionment, and any interest payable under section 29, and any interest payable under clause (1) of section 26, but not paid or recovered before the apportionment under section 28, shall be a first charge upon such Improved lands and upon such Reclaimed lands respectively. Such charge shall not be avoided by the sale of such lands or of any estate, tenure, or undertenure within which they are included for arrears of revenue or rent.

32. The Commissioners shall, so soon as conveniently may be, after having apportioned the sums to be payable by the holders of the lands of any village respectively, make and publish a Report describing the several lands in respect of which they have declared

such sums to be payable, the names of the respective holders thereof, who have been made liable to pay the same to the Collector, and the sum payable by each in respect of the same. Every such Report shall distinguish between the Reclaimed lands and the Improved lands, and shall classify the latter according to the extent of the improvement. A copy of such report shall be sent through the Collector to the Commissioner of the Division for confirmation by such Commissioner.

33. If the Commissioners shall, for the space of three months after the completion of the entire works has been certified to them as aforesaid, neglect or refuse to proceed with the Apportionment of the sums payable as aforesaid, or to make such Report as aforesaid, or for the space of two months after any Report and Apportionment shall have been returned to them for further consideration and revision under the provisions hereinafter contained, neglect or refuse to proceed to such further consideration and revision as is required, the Collector may serve them with a notice requiring them to proceed as aforesaid: and if for one month after service of such notice they neglect so to proceed, the Lieutenant-Governor may appoint such officer or officers as to him shall seem fit to make or consider and revise such Apportionment and Report, and to do all or any of the subsequent acts which the Commissioners are hereby required or empowered to do in respect of such Apportionment and Report; and every Apportionment and Report so made or revised, and every such act so done shall have the same force and effect as if the same had been made, revised, or done by the Commissioners.

34. Whenever any Apportionment and Report have been made in pursuance of the provisions hereinbefore contained, the Commissioners shall cause such Report to be published by affixing in every village in which any lands mentioned therein are situate a copy of so much thereof as relates to such lands, and also a like copy at the office of the Collector and of the Sub-divisional Officer, and at every Munsif's Court within whose jurisdiction, and at every police thana within the limits of which, such village, or any part thereof, is situate. The fact of such Apportionment and Report having been made, and of such copies having been affixed, shall also be notified by beat of drum in every such village.

35. Any person who may deem himself to be aggrieved by any such Apportionment may, within one month after such Report has been published, prefer an objection before the Commissioners, and the Commissioners shall be bound to enquire into and decide upon such objection; and any person who is dissatisfied with such decision may within one month from the date of such decision appeal to the Commissioner of the Division against such Apportionment; and such Commissioner shall cause notice of the day fixed for the hearing of such appeal to be published by affixing the same in the office of the Collector and of the Sub-divisional Officer and in a conspicuous place in every village, and in the Court of every Munsif within whose jurisdiction, and at every police thana within the limits of

In default of Commissioners, officer appointed by Lieutenant-Governor to make Apportionment and Report.

Amounts made payable to be a charge upon the Improved lands and Reclaimed lands respectively. Secretary of State for India in Council to have a perpetual lien for their recovery.

Appeal against Apportionment.

Commissioners to report Apportionment.

which any of the lands mentioned in such Report are situate.

Such Commissioner shall hear such appeal and the objections thereto of all persons interested, and may confirm such Apportionment, or may revise and alter the same as to him shall seem fit, or may return the same to the Commissioners for further consideration and revision;

Provided that the total sum apportioned by every Apportionment and Report so revised and altered, as payable in respect of all the lands improved or reclaimed by the works, shall not be less than the total cost of the construction of such works within the meaning of section 25.

Every such Apportionment and Report, when revised or altered, shall, so far as the same has been altered, be published, and be liable to appeal in like manner as the original Apportionment and Report.

The decision of the Commissioner of the Division upon any appeal under this section shall be final.

36. Whenever the Commissioner of the Division shall confirm any Apportionment and Report, or whenever one month shall have elapsed from the publication of any Report without any appeal therefrom having been preferred, he shall pass an order declaring the sums payable in respect of the lands respectively and the persons liable to pay the same to be determined, and shall cause such order to be published in such manner as to him shall seem fit.

PART IV.

RECOVERY OF SUMS DUE TO THE COLLECTOR.

37. As soon as any Apportionment has been determined as aforesaid, the Collector may cause a notice in the form in Schedule (B) hereto annexed to be served upon any landholder who has not paid the sum payable by him. Such notice shall require such landholder within one month from the date of its service upon him to pay such sum with interest at the rate of five per centum per annum, or to enter into an engagement for the payment by instalments extending over a period of not more than ten years of such sum, together with interest at the said rate on all instalments remaining unpaid at the date of such payment.

38. If any landholder fails to discharge the sum made payable in respect of his Improved lands or in respect of his Reclaimed lands, or fails to enter into an engagement for the payment thereof as in this Act hereafter provided, or having entered into such an engagement fails to discharge any instalment payable thereunder, such sum or such instalment, together with interest thereupon at five per centum per annum shall be recoverable under the provisions of any law for the time being in force for the recovery of Public Demands.

39. If the Collector thinks it inexpedient to proceed under the provisions of section 38, or having so proceeded shall have failed to realize the sum due, he may, with the sanction of the Board of Revenue, raise the amount neces-

sary to discharge the sum or instalment remaining unpaid—

- (a) by letting in perpetuity or for a term, on payment of a premium equivalent to such amount, the whole or any part of such Improved lands or Reclaimed lands;
- (b) by mortgaging the whole or any part of such Improved lands or Reclaimed lands;
- (c) by letting in farm or managing by himself or another the whole or any part of such Improved lands or Reclaimed lands; or
- (d) partly by one of such modes and partly by another or others of them.

For the purposes of this section, the Collector may exercise all the powers of the owner of such Improved or Reclaimed lands: and his signature shall be a good and sufficient signature to any document necessary to carry into effect the said purposes.

40. In case the Collector certifies that any sum payable as hereinbefore provided cannot be realized as provided by section 38 or 39, so much of such sum as shall not have been so realized shall be a charge upon any profits that may accrue from the property vested in the Collector under the provisions of section 47.

41. Any landholder who has entered into an engagement for the repayment of any sum apportioned as aforesaid may at any time repay to the Collector the entire amount of the principal sum which shall be then remaining due, and interest thereupon up to the day of payment, and thenceforth the said engagement shall be terminated and all liabilities in respect thereof for principal or interest shall determine.

PART V.

RECOVERY BY LANDHOLDERS OR SUPERIOR TENANTS OF THE COST OF THE WORKS FROM PERSONS HOLDING LAND UNDER THEM.

42. Every landholder who has been charged with any sum by a Report published as aforesaid may, after he has paid or engaged to pay the same—

(a) proceed under any law for the time being in force to enhance the rents of any person holding immediately from him any land, the productive powers of which have been increased by any works carried out under this Act, provided that any such person may at his option elect to pay under clause (b) of this section: or

(b) recover such sum or any part thereof, according to the proportions hereinafter provided, with interest at the rate of five per centum per annum from the date of payment by him of any portion thereof, from the persons holding immediately from him lands in respect of which such sum has been declared payable, and which have been benefited by any scheme or works carried out under this Act.

(c) The sum recoverable by such landholder from each such person under clause (b) in respect of the lands of each class shall bear the same proportion to the sum charged upon such landholder

in respect of all lands of that class as the area of the lands of that class which are held by such person bears to the area of the lands of the same class in respect of which the landholder has been charged. No person from whom a landholder is authorized to recover any sum under this section shall be liable to pay in any one year more than one-tenth part of the total sum so recoverable from him, and no person shall be liable to pay in one year more than the increased annual value of the lands in respect of which the payment is made.

43. Any superior tenant who has made any payment to a landholder under the provisions of clause (b) of section 42 may

Recovery by superior tenant.

(a) proceed under any law for the time being in force to enhance the rents of any person holding directly from him lands the productive powers of which have been increased by any works carried out under this Act, provided that any such person may at his option elect to pay under clause (b) of this section: or

(b) recover the sum or part of the sum which has been so paid by him according to the proportions and subject to the rules laid down in clause (c) of section 42, with interest at the rate of five per centum per annum from the date of payment by him of any portion thereof, from the persons holding directly from him lands in respect of which the payment has been made, and which have been benefited by any scheme or works carried out under this Act.

44. (1)—The sum payable to a landholder or superior tenant in any one year under clause (b) of section 42 or under clause (b) of section 43 shall be payable by equal instalments upon the days appointed for the payment to such landholder or superior tenant of the rent of the lands concerned, and shall be recoverable as if the same were an arrear of rent.

Mode and time of payment.

(2)—If such landholder or superior tenant and any person holding lands directly from him cannot agree as to the amount which such person shall pay, such landholder or superior tenant may serve such person through the Collector with a notice setting forth the amount which he claims, and requiring such person, within one month after the service of such notice, to pay the amount claimed or enter into an engagement for the payment thereof by instalments extending over a period of not more than ten years, or appear before the Collector and object.

Provision in case of dispute as to the amount to be paid.

(3)—If such person do not within the said period of one month appear and object, the amount set forth in such notice shall be recoverable with interest at five per centum per annum. If such person appear and object, the Collector shall dispose of such objection, and his decision shall be final. The Collector may direct that any sum of money payable under his decision, together with any costs awarded by him, be paid by instalments extending over a period of not more than ten years. The provisions of clause (1) of this section shall apply to every sum payable according to an order of the Collector passed under this section.

Collector to decide objection.

45. No person from whom any sum has been recovered under clause (b) of section 42 or under clause (b) of section 43 shall be subject to any claim for enhanced rent on account of the benefit caused by the works to his lands.

Proviso.

PART VI.

MISCELLANEOUS.

46. All outlets and water-channels, natural or artificial, which shall be altered, enlarged, excavated or cut under the provisions of this Act, and the construction and maintenance of embankments and of dams and works therein or connected therewith shall, save as hereinafter provided, be subject to the law for the time being in force regulating the construction and maintenance of public embankments and public rivers, channels, and outlets.

Drainage works to be subject to the laws relating to embankment.

47. All lands which are taken under the provisions of this Act for the purpose of the construction of works therein or thereon, and all works constructed under the provisions of this Act, as well as all outlets, water-channels, embankments and dams so constructed, altered, enlarged, excavated or cut, shall be vested in the Collector of the district for the time being on behalf of the Secretary of State for India in order to effectuate and maintain the objects of this Act; and, to assist the Collector in the management of the same, the Lieutenant-Governor may appoint, or authorize the election, by the landholders aforesaid, of a Committee consisting of not less than four or more than six persons, being themselves holders of the lands reclaimed or improved.

48. (1)—The expense of keeping in efficient order and repair any improvements or works effected under this Act shall be charged to the profits from the property vested in the Collector under section 47, and if such profits shall not suffice, the balance shall be paid to the Collector in the proportions of the original contributions by the holders for the time being of the lands which have been benefited by such works; and all sums payable to the Collector under the provisions of this section shall be recoverable in the manner provided by section 38, or in the manner provided by section 39, and every proprietor or other person who has paid any such sum may recover the same, or any part of the same, in the proportion and subject to the rules laid down in section 42 or 43, as the case may be.

Cost of maintenance of works.

(2)—Any such amount as is specified in section 25 which from oversight or other cause has been omitted from the Apportionment and Report made under section 32 or section 33 may be charged and recovered under the provisions of clause (1) of this section.

Recovery of items omitted from apportionment.

(3)—If on the first day of January next before the last instalments payable under the provisions of section 36 are due, there is, after providing for the expense of keeping in efficient order and repair the improvements and works executed under this Act, a surplus of the profits

Surplus profits from property vested in Collector under section 47 to be appropriated to payment of debt to Government.

from the property vested in the Collector under section 47, such surplus or as much thereof as will suffice shall be appropriated to the liquidation of the said last instalments. Any landholder who has paid any such instalment in advance under the provisions of section 41 shall be entitled to a refund in proportion with interest at five per cent. per annum.

(4)—The Lieutenant-Governor may at any time, in his discretion, direct that the total average annual expense, which over and above such profits as aforesaid is necessary to keep such improvements and works in efficient order and repair, be estimated, and that there be levied from such landholders in lieu of all future contributions to the maintenance of such improvements and works, such amount as being invested in Government securities at the current rate of interest shall yield a sum equal to such average annual expense. The provisions of sections 31, 38, and 39 shall apply to such capitalized amount.

49. The Commissioners, the Commissioner of the Division, and every officer appointed by the Lieutenant-Governor under section 33, shall have the powers conferred on Civil Courts by the Code of Civil Procedure for compelling the attendance of witnesses and the production of evidence and for examining witnesses in any enquiry or appeal which they or he may be empowered to make or entertain under the provisions of this Act.

50. Any land held free of rent or revenue, being less than one hundred standard bighas in extent, and not being a property entered on the Collector's General Register of revenue-free lands, may, for the purposes of this Act, be deemed to form a tenure or undertenure held immediately from some landholder, and the Commissioners shall determine who shall be deemed to be the landholder in respect of such tenure; provided that any holder of such land, who may deposit the cost of survey of his land at a rate to be approved by the Commissioners and calculated on the area claimed by him, shall be entitled to be deemed a landholder in respect of such lands within the meaning of this Act.

51. Wherever any land as mentioned in the last preceding section shall be deemed to form a tenure or undertenure held immediately from a landholder as therein provided, every sum payable to the landholder in respect of such land in any one year shall be payable in two equal instalments on such dates as the Commissioner of the Division may fix. Such Commissioner shall cause due notice to be given in the villages concerned of the dates so fixed by him.

52. All notices under this Act required to be served may be served by delivering the same to the person to be served, or by posting the same upon the door of his dwelling-house, or if such person cannot be found and his dwelling-house is not known, then by posting the same on some conspicuous part of the land to which such notice relates, and copies thereof at the Munsif's Court within whose jurisdiction, and the police thana within the limits of which, such land is situate.

53. No proceeding under this Act shall be defeated or invalidated by reason of any defect in the number or property of assenting landholders, nor by any defect or omission in the publication or service of any notification, notice or order, unless material injury is done to any person by such defect or omission; and every order and report of the Commissioners, of the Collector, and of any officer appointed by the Lieutenant-Governor under section 33, shall be conclusive evidence that all notifications and notices hereby required as preliminary thereto had been duly published and served, and that all other preliminaries thereunto had been duly performed, and, save as is hereinbefore provided, shall be final and conclusive.

54. The Lieutenant-Governor may by an order in writing direct that any portion of a scheme adopted and ordered to be executed under this Act shall, for the purposes of this Act or for any such purposes, be deemed to be a separate scheme.

55. The Lieutenant-Governor may specially empower any person to do all or any acts, to discharge all or any functions, and to exercise all or any powers which may be done, discharged or exercised by a Collector under this Act, and on any person being so specially empowered, such person may do all or any of such acts, discharge all or any of such functions, and exercise all or any of such powers, and such person shall be deemed to be the Collector for the purposes of the scheme in respect of which he is so specially empowered.

56. The Collector may, with the sanction of the Commissioner of the Division, delegate to any Deputy, Assistant, or Sub-Deputy Collector, or to any similar officer, the performance of any acts and the discharge of any functions which the said Collector may perform or discharge under this Act;

and upon such delegation such Deputy Collector or other officer may do any such acts and discharge any such functions;

and may exercise any powers for the performance of the same, which the Collector may exercise under this Act;

Provided that all acts done, functions discharged, and powers exercised by such officer, shall be done, discharged, or exercised subject to the control and supervision of the Collector.

57. Notwithstanding anything hereinbefore contained, all the proceedings of the Commissioners and of the Collector under this Act shall be subject to the general control and supervision of the Commissioner of the Division.

58. The Lieutenant-Governor may from time to time make rules to regulate the following matters:—

(a) the proceedings of any officer, who, under any provision of this Act, is required or empowered to take action in any matter;

(b) the person by whom, the time, place, or manner at or in which, anything for the doing of which provision is made in this Act, shall be done;

(c) and generally to carry out the provisions of this Act.

The Lieutenant-Governor may from time to time alter or cancel any rules so made.

Such rules, alterations, and cancelment shall be published in the *Calcutta Gazette*, and shall thereupon have the force of law.

PART VII.

SPECIAL PROVISIONS FOR WORKS CARRIED OUT UNDER BENGAL ACT V OF 1871.

59. The following portions of this Act shall apply to any scheme or works carried out under the provisions of Bengal Act V of 1871, that is to say—

Portions of this Act applicable to works carried out under Bengal Act V of 1871.

- (a) As to the method of realizing sums due on account of the cost of the works, sections 31, 38, 39, and 40.
- (b) As to the recovery by landholders or superior tenants of the cost of the works, from persons holding land under them, Part V;
- (c) As to other matters, Part VI.

60. If the Lieutenant-Governor is satisfied that the apportionment of the cost of any scheme or works carried out under the provisions of Bengal Act V of 1871 is inequitable for reasons discovered by the operation of the completed scheme, or on grounds not originally considered by the Commissioners, the Lieutenant-Governor may, at any time within one year after the commencement of this Act, direct a revision of the said apportionment, and may for the purpose of such revision appoint Commissioners. The provisions of Part I shall be applicable to the appointment of, and to the conduct of business by, such Commissioners.

61. Such Commissioners shall proceed without delay to revise such apportionment, and in making such revision they shall be guided by the provisions of sections 28, 32 and 34, so far as the same may be applicable, and shall have regard to the degree of benefit which, upon taking proceedings under this section, they may find to have been conferred on the lands: provided that the total sum apportioned upon such revision as payable in respect of all the lands improved or reclaimed by the works shall not be less than the total cost of the construction of such works within the meaning of section 25.

62. For the purpose of making such revised apportionment, such Commissioners shall have full power to increase or reduce the apportionment which was previously made upon individuals, and to direct such refunds to be made to, or addi-

tional payments to be levied from, individuals, as may be necessary to give full and complete effect to such revision. Any person dissatisfied with any order passed by such Commissioners under this section may appeal to the Commissioner of the Division, and the provisions of section 35 shall be applicable to any such appeal.

63. The provisions of section 36 as to an apportionment becoming final shall be applicable to such revised apportionment; and the provisions of sections 31, 38, 39 and 40 shall be applicable to the realization of any sums which may become payable under the same.

SCHEDULE A—(referred to in section 12).

BENGAL DRAINAGE ACT, 1880.

To all whom it may concern.

TAKE notice that it is proposed to drain and improve certain lands in the village of , paraganah . Plans and provisional estimates of the works proposed are now lodged in and may be inspected by any person interested on any of the days and at any of the times specified below till the day of next. (Here specify the days and hours at which the plans and the estimates will be open to inspection.)

All proprietors of estates paying revenue direct to Government of which any lands may be affected by the proposed drainage and improvement,

all owners of revenue-free lands borne on the Collector's General Register of Revenue-free lands, which may be so affected,

all persons having permanent rent-paying interests in tenures, undertenures or lands extending to not less than one hundred standard bighas to be so affected,

and all persons having permanent rent-free interests in tenures, undertenures and lands to be so affected,

are hereby called upon to inspect the said plans and estimates.

Those who wish the works to be carried out and are willing to bear their proportion of the cost thereof are requested to send to the Drainage Commissioners their assent in writing, signifying therein, so far as possible, the nature and extent of their interest in such land, on or before the day of 18 . Those who have any objection to the execution of the said works are required to send in their objection in writing to the said Commissioners on or before the said day.

All persons who are hereby called upon to give their assent or express their objections in writing are warned that under the law the Commissioners are not bound to recognize any such assent or objection unless the person making the same specifies the extent and portion of the land which he holds, and the tenure or interest which he has in the same.

Collector, for the Drainage

Commissioners.

SCHEDULE B—(*referred to in section 37*).

BENGAL DRAINAGE ACT, 1880.

To

Take notice that the Drainage Commissioners have apportioned against you the sum of _____ as your contribution in respect of the lands of _____, and that you are hereby required, within one month from the date of the service of this

notice, to pay to me the said sum of Rs. _____, together with interest at the rate of five per centum per annum from the _____ day of _____, or to enter into an engagement for the payment of the same by instalments extending over a period of not more than ten years.

Collector.

W. E. H. FORSYTH,

Offg. Asst. Secy. to the Govt. of Bengal.



The Calcutta Gazette.

WEDNESDAY, JUNE 16, 1880.

PART III.

Acts of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

ACT No. VI OF 1880.

THE BENGAL DRAINAGE ACT, 1880.

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THE following Act, passed by the Lieutenant-Governor of Bengal in Council received the assent of His Honor on the 22nd April 1880, and having received the assent of His Excellency the Governor General on the 28th May 1880, is hereby promulgated for general information:—

ACT No. VI OF 1880.

An Act to provide for the Drainage and Improvement of Lands.

WHEREAS it is expedient that provision should be made for the better drainage and improvement of lands in the territories administered by the Lieutenant-Governor of Bengal: It is hereby enacted as follows:—

PRELIMINARY.

1. This Act may be called "The Bengal Drainage Act, 1880 :"
 Short title.
 It extends to all the territories for the time being under the administration of the Lieutenant-Governor of Bengal;
 Extent.
 and it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.
 Commencement.

2. Bengal Act V of 1871 (*The Hughli and Burdwan Drainage Act*) shall be repealed on and from the date upon which this Act comes into force, but, subject to the provisions of this Act, this repeal shall not affect the past operation of such Act, or anything duly done or suffered, or any right, privilege, obligation or liability, acquired, accrued or incurred thereunder.

3. In this Act, unless there be something repugnant in the subject or context—
 Interpretation clause.
 "The Collector" means the officer in charge of the revenue jurisdiction of the district within which the lands which form the subject of a scheme under this Act, or the greater portion of such lands, are situate. If any doubt arises as to whether the greater portion of the lands is situate within one of two or more districts, the Board of Revenue shall decide the point, and such decision shall be final:

"The Commissioners" mean the Drainage Commissioners to be appointed under this Act:
 "The Commissioners."
 "Estate" means land included under one entry in the General Registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law for the time being in force by any Collector of a district, or a share of, or interest in, such land:

"Proprietor" means a person who as owner is solely or jointly in possession of an estate:

"Tenure" means—
 (1) a permanent rent-paying interest in land immediately subordinate to that of a proprietor, and superior to that of a ryot, extending to not less than one hundred standard bighas affected or to be affected by any works under this Act;

(2) a permanent revenue-free or rent-free interest in land affected or to be affected by any works under this Act, when there exists no rent-paying interest in the same land between the proprietary interest in the estate and such revenue-free or rent-free interest :

"Undertenure" means—

(1) a permanent rent-paying interest in land subordinate to that of a tenure-holder and superior to that of a ryot, extending to not less than one hundred standard bighas affected or to be affected by any works under this Act ;

(2) a revenue-free or rent-free interest in land affected or to be affected by any works under this Act, when there exists a rent-paying interest in the same land between the proprietary interest in the estate and such revenue-free or rent-free interest :

EXPLANATION.—The term "permanent" is used with reference to the tenure or undertenure itself, and not with reference to the person who happens to hold such tenure or undertenure for the time being. A tenure or undertenure is none the less permanent although held by a Hindú widow, a Sebait, or a person subject to the Mitakshara law.

"Landholder" and "Holder of Land." and "Landholder" and "Holder of land" mean—

(1) any person who as owner of an estate is solely or jointly in possession thereof ;

(2) any person who as owner of a tenure or undertenure is solely or jointly in possession thereof :

Where two or more persons are joint landholders, they shall be jointly and severally liable under this Act, except as is otherwise expressly provided herein :

"Reclaimed land" means land which was unfit for cultivation before the execution of any works under this Act, but which has been rendered productive by such works :

"Improved land" means land which was more or less fit for cultivation before the execution of any works under this Act, but of which the productive powers have been increased by such works :

"Part" and "Section" mean respectively a part and section of this Act.

PART I.

APPOINTMENT OF COMMISSIONERS AND CONDUCT OF BUSINESS.

4. Whenever it appears expedient to the Lieutenant-Governor to appoint Commissioners, carry out any scheme and plans for the drainage and improvement of any tract of land, the Lieutenant-Governor may appoint any number of persons not less than seven, of whom the majority shall be qualified by being holders of lands to be affected by the works mentioned in the said scheme and plans, or managers on behalf of such holders, to be Drainage Commissioners for carrying out the provisions of this Act ;

and the Lieutenant-Governor may from time to time remove, or accept the resignation of, any such Commissioner, or may add to the number of the Commissioners, and may appoint another person in the place of any such Commissioner dying,

resigning, being removed or ceasing to reside in the district in which such lands are situate, but so as that the majority of the Commissioners shall always be persons qualified as aforesaid.

No act done or proceeding taken by the Commissioners shall be invalid merely on the ground that at the time of doing such act or of taking such proceeding the majority of the Commissioners were not persons qualified as aforesaid.

5. The Lieutenant-Governor shall from time to time appoint one of the persons so appointed Commissioners as aforesaid to be Chairman of the Commissioners, and may at any time, if he see fit, revoke such appointment and appoint another of such persons to be Chairman. The Commissioners may sue and be sued in the name of their Chairman.

6. The Commissioners shall ordinarily meet for the transaction of business once at least in every quarter. Such meeting

shall be held upon such day and at such hour as the Commissioners shall from time to time determine. No business shall be transacted at any meeting unless at least three members are present at the commencement and close of such business.

7. The Chairman of the Commissioners may, whenever he thinks fit, and shall, upon request made in writing by three of the Commissioners, call an extraordinary meeting of the Commissioners.

8. The Chairman shall preside at every meeting of the Commissioners, but in case of his absence at the time appointed for holding a meeting, the Commissioners present may choose one of their number to be President of such meeting.

9. (1)—All questions at any meeting, including the question of adjourning such meeting, shall be decided by a majority of votes of the members present. In case of an equality of votes, the President for the time being of such meeting shall have a second or casting vote.

(2)—The Commissioners may delegate any of their powers to Committees consisting of such member or members of the body as they think fit. Any Committee so formed shall, in the exercise of the powers delegated, conform to any regulations that may be imposed on them by the Commissioners.

(3)—A Committee may elect a Chairman at their meetings. If no Chairman is elected, or if he is not present at the time appointed for holding any meeting, the members present shall choose one of their number to be Chairman of the same.

(4)—A Committee may meet and adjourn as they think proper. Questions at any meeting shall be determined by a majority of votes of the members present, and in case of an equal division of votes, the Chairman shall have a second or casting vote.

10. The Chairman of the Commissioners may by Power to appoint an order in writing appoint and dismiss such servants and officers other than Engineers and their subor-

dinates, as may be required for the purposes of this Act, and he may control them as he shall see fit. There shall be paid to such servants and officers respectively such salaries as may appear to the Commissioners to be proper.

11. The Lieutenant-Governor may, when satisfied that the objects of their appointment have been fulfilled, direct that the powers and functions of the Commissioners shall cease.

PART II.

DRAINAGE SCHEME.

12. The Commissioners shall within three months after their appointment cause a notification in the language of the district to be published by beat of drum in every village in which may be situate any portion of the lands to be affected by the works proposed in such scheme and plans. Every such notification shall be in the form in Schedule (A) hereto annexed, and shall further be published by posting the same at the office of the Collector and of the Sub-divisional Officer and in some conspicuous part of the village aforesaid, and at the Court of the Munsif within whose jurisdiction, and at the thana within the limits of which, such village is situate.

13. After the date named in such notification, a list of the persons who may have given their assent or made any objection in writing in accordance with such notification shall be prepared and published in the manner provided in section 12 for the information of all concerned. Such list shall contain a specification of the land in respect of which such persons claim to vote as landholders, and of the titles in virtue of which they claim to vote respectively: and there shall be appended thereto a notice that objections to the right of voting so claimed must be lodged with the Commissioners within one month after the publication of the said list.

14. (1)—The Commissioners may, at some meeting to be held not less than one month after such list has been published under the provisions of section 13, proceed to ascertain whether the holders of half of the lands to be reclaimed or improved have assented in writing to the adoption of the scheme. For the purpose of so ascertaining, the Commissioners shall take into account the vote of not more than one landholder in respect of any one portion of the area affected, and, whenever more than one landholder shall have given his vote in respect of the same portion of such area, the Commissioners shall take into account the vote of the landholder who holds the lowest interest in respect of such area, and shall not take into account, in respect of such area, the vote of any superior landholder who may have voted.

Example—

A gives his vote as proprietor of 5,000 bighas;
B as patnidar of 2,000 bighas included in A's proprietary of 5,000 bighas;
C as mokarridar of 100 bighas included in B's patni;

D as holding a permanent jama of 500 bighas included in A's proprietary of 5,000 bighas, but not in B's patni of 2,000 bighas.

The Commissioners shall take into account the votes of the respective landholders in respect of the following areas:—

D for	...	500 bighas.
C "	...	100 "
B " (2,000—100=)	...	1,900 "
A " (5,000—2,000—500=)	...	2,500 "
Total...		5,000 "

(2)—One vote only shall be allowed in respect of an estate, tenure or undertenure belonging to two or more co-sharers. In order to ascertain whether this vote shall be taken as assenting or objecting to the adoption of the scheme, regard shall be had to the votes of the co-sharers individually, and account shall be taken of those only who actually vote. If the majority assent, a vote of assent shall be deemed to have been given in respect of the estate, tenure or undertenure. If the majority object, a vote of objection shall be deemed to have been given. If the number assenting and the number objecting are equal, no vote shall be deemed to have been given in respect of such estate, tenure or undertenure.

15. The Commissioners may in their discretion refuse to take into account the vote of any person who, after being required to do so, fails to specify the extent of land held by him, and the nature of the interest which he has in such land.

16. (1)—Whenever the right of any person to vote as a holder of any land shall be disputed, the Commissioners shall determine whether the vote of such person shall or shall not be accepted in respect of such land, and their determination shall be final for the purposes of section 17; provided that any "recorded proprietor," as defined by section 3 of "The Land Registration Act, 1876," shall be entitled to vote in respect of any property of which he is the recorded proprietor.

(2)—In the case of a landholder who is a proprietor disqualified to manage his own property under the provisions of "The Court of Wards' Act, 1879," or any similar law for the time being in force, or who is a minor or a lunatic, the right to vote shall be exercised by any manager of the property of such disqualified proprietor or minor or lunatic, appointed by the Court of Wards or by the Civil Court under the provisions of any law for the time being in force, or, where no such manager has been appointed, by any person who, in the opinion of the Commissioners, duly represents the interests of such minor or lunatic.

(3)—Where the holder of any land cannot be found, such land shall be altogether excluded in any computation that may be made in order to determine whether the landholders of not less than half of the area to be reclaimed or improved have assented to the adoption of the scheme.

17. If the landholders of not less than half of the area to be reclaimed or improved, ascertained as above provided, shall have assented to the adoption of the scheme, and not otherwise, the Commissioners shall proceed to consider such scheme, together with the plans and estimates for carrying out the same, and shall further consider such objections as have been made thereto; and may adopt such schemes, plans, and estimates, or may alter and modify the same, and adopt the scheme, plans, and estimates so altered or modified, or may disapprove or reject the same.

18. If the landholders of half of the area to be reclaimed and improved do not assent to such scheme, but the landholders of half of the area to be affected by some portion of such scheme assent thereto, the Commissioners may resubmit such portion of the scheme to the Lieutenant-Governor, and may, with his approval, proceed thereupon in manner aforesaid.

19. If the Commissioners adopt such scheme, plans and estimates, or any modification or alteration thereof, they shall, within one month after such scheme, plans and estimates, or some modification or alteration thereof, have been adopted by them, cause the same to be laid before the Lieutenant-Governor, and the Lieutenant-Governor may sanction the scheme, plans and estimates so adopted, or any portion thereof, as to him shall seem fit.

20. (1)—The Commissioners may, with the previous assent of the Lieutenant-Governor, at any time reconsider any scheme, plans or estimates adopted by them, and add to, alter or modify the same;

and when any addition, alteration or modification has been adopted by them, they shall cause the same to be laid before the Lieutenant-Governor:

the Lieutenant-Governor may sanction such addition, alteration or modification, or any portion thereof, as he may think fit,

and thenceforth the provisions of this Act shall apply to such addition, alteration or modification, as if it had been a portion of the original scheme, plans or estimates; and every such addition, alteration or modification, after it has been adopted, shall be published by the Commissioners as to them shall seem fit.

No such addition, alteration or modification shall be adopted at a meeting at which the majority of the members present are not qualified as provided by section 4.

(2)—No addition, alteration or modification under clause (1) to or of any scheme which affects any lands other than those which would be affected by some scheme theretofore published, shall be adopted by the Commissioners until the same has been published for not less than fifteen days, according to the provisions of section 12, in every village in which may be situate any portion of the lands to be affected by such addition, alteration or modification; nor shall any such addition, alteration or modification be adopted unless the landholders of not

less than half the entire area to be affected by the scheme as so added to, altered or modified, assent to the same.

21. When the Lieutenant-Governor has sanctioned any scheme, plans and estimates as aforesaid, or some portion thereof, he may direct proceedings to be taken under the provisions of "The Land Acquisition Act, 1870," or any other law for the time being in force for the acquisition of land for public purposes, in order to obtain any land likely to be required for the works mentioned in such sanctioned scheme, plans and estimates, or any portion thereof.

22. The Lieutenant-Governor may, if he thinks fit, order the works specified in such sanctioned scheme, plans and estimate, or portion thereof, to be executed by an officer to be thereunto appointed by the Lieutenant-Governor, and may, subject to the sanction of the Governor-General of India in Council, order the advance from the Public Funds of such sum of money as may be required for the purpose of making such improvements, and such officer may cause the works specified in such scheme and plans to be executed, and for that purpose may by himself, his agents and workmen enter into or upon any lands and perform such works thereupon as may be required.

23. The Lieutenant-Governor may at any time after the said works have been commenced by an order sanction any alteration or modification of such scheme or plan suggested to him by the officer in charge of such works, if after communication with the Commissioners it shall appear to him that by such alteration or modification the general character and scope of the scheme will not be altered, nor greater expenditure incurred thereon, than would be incurred in the scheme as originally sanctioned; and after such sanction, such alteration or modification shall be taken to be a portion of the scheme adopted by the Commissioners in substitution for the portion of such scheme thereby altered, and every such alteration or modification shall be published by the Commissioners as to them shall seem fit.

24. (1)—Any person who alleges that damage has been caused to his property by any scheme or works commenced or carried out under this Act may, at any time before the expiry of the three years mentioned in clause (1) of section 28, prefer to the Commissioners a claim for compensation in respect of such damage actually caused, and of all future damage likely to be caused to such property by such scheme or works.

The Commissioners shall duly consider any such claim; and if they are satisfied that such damage has been caused or is likely to be caused, they shall assess such compensation as to them appears fair and reasonable.

If such person agrees to accept the amount so assessed, the same shall be paid to him:

If he do not agree to accept such amount, the Commissioners shall

make a reference to the Civil Court in the manner in which a Collector is empowered to make a reference by section 15 of "The Land Acquisition Act, 1870," and the provisions of Part III of the said Act shall apply to any reference so made.

(2)—When the persons interested in such property, to which damage has been caused as aforesaid agree to accept the amount of compensation assessed by the Commissioners, but a dispute arises as to the apportionment of the same or any part thereof, or when the amount of compensation has been settled by the Court on a reference under clause (1) of this section, and a similar dispute arises, the Commissioners shall refer such dispute to the decision of the Civil Court, and the provisions of Part IV of the said Land Acquisition Act shall apply to any reference so made.

(3)—When the amount of compensation assessed by the Commissioners does not exceed one thousand rupees, any reference made under the said clause (1) may be transferred by the Principal Civil Court of original jurisdiction of the district to any Subordinate Judge in the same district, and such Subordinate Judge shall have power to hear and dispose of the same; and any reference made under clause (2) of this section may be transferred by such Principal Civil Court to any Munsif in the same district, and such Munsif shall have power to hear and dispose of the same.

PART III.

EXPENDITURE AND APPORTIONMENT.

25. All amounts paid as compensation for any lands taken for the purposes of this Act, or for damage inflicted in carrying out any scheme or works under this Act, or as salaries of officers, servants, or establishments, or for surveys or valuations (whether antecedent or subsequent to the preparation of the scheme and plans), and all amounts otherwise duly expended in carrying out the purposes of this Act, shall be included in, and deemed to constitute the cost of, construction of the works, and may be defrayed by advances from the Public Funds as provided by section 22.

26. (1)—All such advances shall bear interest at the rate of five per centum per annum until recovered in the manner hereafter in this Act provided. All such interest, which falls due before the completion of the works is certified to the Commissioners as hereafter provided, shall, upon such completion being so certified, be added to the total amount of the principal sums advanced; and interest at the rate of five per centum per annum upon the total of such interest and principal shall thereafter be payable to the Collector half-yearly by the holders of the lands affected by the works.

(2)—It shall be the duty of the Commissioners to distribute the liability to pay such half-yearly interest amongst such landholders, as soon as the completion of the works has been certified to them, and to report the details of such distribution to the Collector.

(3)—In order to the distribution of such liability, the Commissioners shall have regard to the plans and estimates of the scheme and to such other information as may be supplied to them by the Officer in charge of such works, and shall distribute the liability in a general way, so that the share of the interest payable by the holders of each estate, tenure or undertenure from whom any sum is made payable shall be in proportion to the benefit to be derived by the lands of such holders, so far as the Commissioners can judge of such proportions.

(4)—Notices shall be served upon such holders setting forth the half-yearly amount of interest payable by them and the date upon which it is payable. Where two or more persons are joint holders of an estate, tenure or undertenure, service of notice under this clause on any one such person shall be deemed to be good and sufficient service on each and all of such persons. If such half-yearly amount be not paid upon such date, the Collector may proceed for its recovery according to the law for the time being in force for the recovery of Public Demands.

27. The Officer in charge of the said works shall, until the same shall be finally completed, once in every three months make a detailed report to the Commissioners of the progress of such works and the expenditure thereupon from the day up to which the next preceding report shall have been brought down; and the Examiner of Public Works Accounts to the Government of Bengal, or some other officer authorized in that behalf by the Lieutenant-Governor, shall from time to time certify the sums advanced in accordance with the provisions of section 25, and the dates of such advances, and every such certificate shall be final and conclusive evidence in a Civil Court or in any proceedings under this Act of the sums therein stated to have been advanced having been so advanced, and of the dates upon which they were respectively so advanced.

28. (1)—The Officer in charge of the works shall, as soon as they have been completed, certify such completion to the Commissioners; and the Commissioners shall, upon the expiry of three years from such completion being so certified to them, proceed to classify all the lands benefited by the works according to the degree of benefit conferred; and in such classification they shall distinguish the Improved lands from the Reclaimed lands:

It shall be lawful for the Commissioners at any time during such three years to make such inspections of the lands and such sur-

veys thereof, and otherwise to collect such information, as shall in their opinion conduce to the making of such classification, and of the apportionment hereinafter mentioned.

(2)—The Commissioners shall, after making such classification, proceed further to apportion the total cost of construction, together with the interest mentioned in section 26, upon the Improved lands and Reclaimed lands, and shall draw up a statement showing the amount payable to the Collector by each landholder—

(a) in respect of his Improved lands, if any ; and

(b) in respect of his Reclaimed lands, if any.

In making this Apportionment the Commissioners shall, as far as may be possible, make payable in respect of each plot or field of Improved land a sum not exceeding the amount of the increased capitalized value, which, in the opinion of the Commissioners, has been conferred on such land by the works.

29. If upon the completion of the Apportionment under section 28 it shall be found that any landholder has, under the provisions of section 26, paid more or less interest than he would have been required to pay according to the proportions adopted in the apportionment under clause (2) of section 28, if such apportionment had then been in force, the Commissioners shall direct such refunds to be made or such additional amounts to be levied as shall be necessary to bring the payments of all the landholders concerned into conformity with such proportions.

30. Whenever any land, in respect of which any sum is apportioned as payable under the provisions of section 26 or 28, forms part of a tenure, or of a tenure and of an undertenure, it shall be lawful for the Commissioners to declare whether the holders of the estate, of the tenure, or of the undertenure, shall be deemed to be the landholders liable to pay to the Collector the sum apportioned as payable in respect of such land.

31. The total sum so made payable in respect of the Improved lands of any one landholder, and the total sum so made payable in respect of the Reclaimed lands of any one landholder, with interest upon such sums at five per centum per annum from the date of Apportionment, and any interest payable under section 29, and any interest payable under clause (1) of section 26, but not paid or recovered before the apportionment under section 28, shall be a first charge upon such Improved lands and upon such Reclaimed lands respectively. Such charge shall not be avoided by the sale of such lands or of any estate, tenure, or undertenure within which they are included for arrears of revenue or rent.

32. The Commissioners shall, so soon as conveniently may be, after having apportioned the sums to be payable by the holders of the lands of any village respectively, make and publish a Report describing the several lands in respect of which they have declared

such sums to be payable, the names of the respective holders thereof, who have been made liable to pay the same to the Collector, and the sum payable by each in respect of the same. Every such Report shall distinguish between the Reclaimed lands and the Improved lands, and shall classify the latter according to the extent of the improvement. A copy of such report shall be sent through the Collector to the Commissioner of the Division for confirmation by such Commissioner.

33. If the Commissioners shall, for the space of three months after the completion of the entire works has been certified to them as aforesaid, neglect or refuse to proceed with the Apportionment of the sums payable as aforesaid, or to make such Report as aforesaid, or for the space of two months after any Report and Apportionment shall have been returned to them for further consideration and revision under the provisions hereinafter contained, neglect or refuse to proceed to such further consideration and revision as is required, the Collector may serve them with a notice requiring them to proceed as aforesaid: and if for one month after service of such notice they neglect so to proceed, the Lieutenant-Governor may appoint such officer or officers as to him shall seem fit to make or consider and revise such Apportionment and Report, and to do all or any of the subsequent acts which the Commissioners are hereby required or empowered to do in respect of such Apportionment and Report; and every Apportionment and Report so made or revised, and every such act so done shall have the same force and effect as if the same had been made, revised, or done by the Commissioners.

34. Whenever any Apportionment and Report have been made in pursuance of the provisions hereinbefore contained, the Commissioners shall cause such Report to be published by affixing in every village in which any lands mentioned therein are situate a copy of so much thereof as relates to such lands, and also a like copy at the office of the Collector and of the Sub-divisional Officer, and at every Munsif's Court within whose jurisdiction, and at every police thana within the limits of which, such village, or any part thereof, is situate. The fact of such Apportionment and Report having been made, and of such copies having been affixed, shall also be notified by beat of drum in every such village.

35. Any person who may deem himself to be aggrieved by any such Apportionment may, within one month after such Report has been published, prefer an objection before the Commissioners, and the Commissioners shall be bound to enquire into and decide upon such objection; and any person who is dissatisfied with such decision may within one month from the date of such decision appeal to the Commissioner of the Division against such Apportionment; and such Commissioner shall cause notice of the day fixed for the hearing of such appeal to be published by affixing the same in the office of the Collector and of the Sub-divisional Officer and in a conspicuous place in every village, and in the Court of every Munsif within whose jurisdiction, and at every police thana within the limits of

Cost of construction with interest to be apportioned upon the Improved lands and Reclaimed lands.

Amount payable for the Improved lands not to exceed value of improvement.

Adjustment of excess or deficient payments of interest.

When the land is part of a tenure, &c., Commissioners may declare who shall be deemed liable as landholders.

Amounts made payable to be a charge upon the Improved lands and Reclaimed lands respectively. Secretary of State for India in Council to have a perpetual lien for their recovery.

Commissioners to report Apportionment.

In default of Commissioners, officer appointed by Lieutenant-Governor to make Apportionment and Report.

Appeal against Apportionment.

which any of the lands mentioned in such Report are situate.

Such Commissioner shall hear such appeal and the objections thereto of all persons interested, and may confirm such Apportionment, or may revise and alter the same as to him shall seem fit, or may return the same to the Commissioners for further consideration and revision;

Provided that the total sum apportioned by every Apportionment and Report so revised and altered, as payable in respect of all the lands improved or reclaimed by the works, shall not be less than the total cost of the construction of such works within the meaning of section 25.

Every such Apportionment and Report, when revised or altered, shall, so far as the same has been altered, be published, and be liable to appeal in like manner as the original Apportionment and Report.

The decision of the Commissioner of the Division upon any appeal under this section shall be final.

36. Whenever the Commissioner of the Division shall confirm any Apportionment and Report, or whenever one month shall have elapsed from the publication of any Report without any appeal therefrom having been preferred, he shall pass an order declaring the sums payable in respect of the lands respectively and the persons liable to pay the same to be determined, and shall cause such order to be published in such manner as to him shall seem fit.

Final determination of Apportionment.

PART IV.

RECOVERY OF SUMS DUE TO THE COLLECTOR.

37. As soon as any Apportionment has been determined as aforesaid, the Collector may cause a notice in the form in Schedule (B) hereto annexed to be served

Collector to serve notice of Apportionment, requiring payment or engagement to pay.

upon any landholder who has not paid the sum payable by him. Such notice shall require such landholder within one month from the date of its service upon him to pay such sum with interest at the rate of five per centum per annum, or to enter into an engagement for the payment by instalments extending over a period of not more than ten years of such sum, together with interest at the said rate on all instalments remaining unpaid at the date of such payment.

38. If any landholder fails to discharge the sum made payable in respect of his Improved lands or in respect of his Reclaimed lands, or fails to enter into an engagement for the payment thereof as in this Act hereafter provided, or having entered into such an engagement fails to discharge any instalment payable thereunder, such sum or such instalment, together with interest thereupon at five per centum per annum shall be recoverable under the provisions of any law for the time being in force for the recovery of Public Demands.

39. If the Collector thinks it inexpedient to proceed under the provisions of section 38, or having so proceeded shall have failed to realize the sum due, he may, with the sanction of the Board of Revenue, raise the amount neces-

Collector may also with sanction of Board of Revenue raise unpaid amount by leasing or mortgaging the Improved or Reclaimed lands.

sary to discharge the sum or instalment remaining unpaid—

- (a) by letting in perpetuity or for a term, on payment of a premium equivalent to such amount, the whole or any part of such Improved lands or Reclaimed lands;
- (b) by mortgaging the whole or any part of such Improved lands or Reclaimed lands;
- (c) by letting in farm or managing by himself or another the whole or any part of such Improved lands or Reclaimed lands; or
- (d) partly by one of such modes and partly by another or others of them.

For the purposes of this section, the Collector may exercise all the powers of the owner of such Improved or Reclaimed lands: and his signature shall be a good and sufficient signature to any document necessary to carry into effect the said purposes.

40. In case the Collector certifies that any sum payable as hereinbefore provided cannot be realized as provided by section 38 or 39, so much of such sum as shall not have been so realized shall be a charge upon any profits that may accrue from the property vested in the Collector under the provisions of section 47.

41. Any landholder who has entered into an engagement for the repayment of any sum apportioned as aforesaid may at any time repay to the Collector the entire amount of the principal sum which shall be then remaining due, and interest thereupon up to the day of payment, and thenceforth the said engagement shall be terminated and all liabilities in respect thereof for principal or interest shall determine.

Power to repay advances.

PART V.

RECOVERY BY LANDHOLDERS OR SUPERIOR TENANTS OF THE COST OF THE WORKS FROM PERSONS HOLDING LAND UNDER THEM.

42. Every landholder who has been charged with any sum by a Report published as aforesaid may, after he has paid or engaged to pay the same—

Proprietor may recover from subordinate tenants.

(a) proceed under any law for the time being in force to enhance the rents of any person holding immediately from him any land, the productive powers of which have been increased by any works carried out under this Act, provided that any such person may at his option elect to pay under clause (b) of this section: or

(b) recover such sum or any part thereof, according to the proportions hereinafter provided, with interest at the rate of five per centum per annum from the date of payment by him of any portion thereof, from the persons holding immediately from him lands in respect of which such sum has been declared payable, and which have been benefited by any scheme or works carried out under this Act.

(c) The sum recoverable by such landholder from each such person under clause (b) in respect of the lands of each class shall bear the same proportion to the sum charged upon such landholder

in respect of all lands of that class as the area of the lands of that class which are held by such person bears to the area of the lands of the same class in respect of which the landholder has been charged. No person from whom a landholder is authorized to recover any sum under this section shall be liable to pay in any one year more than one-tenth part of the total sum so recoverable from him, and no person shall be liable to pay in one year more than the increased annual value of the lands in respect of which the payment is made.

43. Any superior tenant who has made any payment to a landholder under the provisions of clause (b) of section 42 may

Recovery by superior tenant.

(a) proceed under any law for the time being in force to enhance the rents of any person holding directly from him lands the productive powers of which have been increased by any works carried out under this Act, provided that any such person may at his option elect to pay under clause (b) of this section: or

(b) recover the sum or part of the sum which has been so paid by him according to the proportions and subject to the rules laid down in clause (c) of section 42, with interest at the rate of five per centum per annum from the date of payment by him of any portion thereof, from the persons holding directly from him lands in respect of which the payment has been made, and which have been benefited by any scheme or works carried out under this Act.

44. (1)—The sum payable to a landholder or superior tenant in any one year under clause (b) of section 42 or under clause (b) of section 43 shall be payable by equal instalments upon the days appointed for the payment to such landholder or superior tenant of the rent of the lands concerned, and shall be recoverable as if the same were an arrear of rent.

(2)—If such landholder or superior tenant and any person holding lands directly from him cannot agree as to the amount which such person shall pay, such landholder or superior tenant may serve

Provision in case of dispute as to the amount to be paid.

such person through the Collector with a notice setting forth the amount which he claims, and requiring such person, within one month after the service of such notice, to pay the amount claimed or enter into an engagement for the payment thereof by instalments extending over a period of not more than ten years, or appear before the Collector and object.

(3)—If such person do not within the said period of one month appear and object, the amount set forth in such notice shall be recoverable with interest at five per centum per annum. If such person appear and object, the Collector shall dispose of such objection, and his decision shall be final. The Collector may direct that any sum of money payable under his decision, together with any costs awarded by him, be paid by instalments extending over a period of not more than ten years. The provisions of clause (1) of this section shall apply to every sum payable according to an order of the Collector passed under this section.

Collector to decide objection.

45. No person from whom any sum has been recovered under clause (b) of section 42 or under clause (b) of section 43 shall be subject to any claim for enhanced rent on account of the benefit caused by the works to his lands.

Proviso.

PART VI.

MISCELLANEOUS.

46. All outlets and water-channels, natural or artificial, which shall be altered, enlarged, excavated or cut under the provisions of this Act, and the construction and maintenance of embankments and of dams and works therein or connected therewith shall, save as hereinafter provided, be subject to the law for the time being in force regulating the construction and maintenance of public embankments and public rivers, channels, and outlets.

47. All lands which are taken under the provisions of this Act for the purpose of the construction of works therein or thereon, and all works constructed under the provisions of this Act, as well as all outlets, water-channels, embankments and dams so constructed, altered, enlarged, excavated or cut, shall be vested in the Collector of the district for the time being on behalf of the Secretary of State for India in order to effectuate and maintain the objects of this Act; and, to assist the Collector in the management of the same, the Lieutenant-Governor may appoint, or authorize the election, by the landholders aforesaid, of a Committee consisting of not less than four or more than six persons, being themselves holders of the lands reclaimed or improved.

48. (1)—The expense of keeping in efficient order and repair any improvements or works effected under this Act shall be charged to the profits from the property vested in the Collector under section 47, and if such profits shall not suffice, the balance shall be paid to the Collector in the proportions of the original contributions by the holders for the time being of the lands which have been benefited by such works; and all sums payable to the Collector under the provisions of this section shall be recoverable in the manner provided by section 38, or in the manner provided by section 39, and every proprietor or other person who has paid any such sum may recover the same, or any part of the same, in the proportion and subject to the rules laid down in section 42 or 43, as the case may be.

(2)—Any such amount as is specified in section 25 which from oversight or other cause has been omitted from the Apportionment and Report made under section 32 or section 33 may be charged and recovered under the provisions of clause (1) of this section.

(3)—If on the first day of January next before the last instalments payable under the provisions of section 36 are due, there is, after providing for the expense of keeping in efficient order and repair the improvements and works executed under this Act, a surplus of the profits

Surplus profits from property vested in Collector under section 47 to be appropriated to payment of debt to Government.

from the property vested in the Collector under section 47, such surplus or as much thereof as will suffice shall be appropriated to the liquidation of the said last instalments. Any landholder who has paid any such instalment in advance under the provisions of section 41 shall be entitled to a refund in proportion with interest at five per cent. per annum.

(4)—The Lieutenant-Governor may at any time, in his discretion, direct that the total average annual expense, which over and above such profits as aforesaid is necessary to keep such improvements and works in efficient order and repair, be estimated, and that there be levied from such landholders in lieu of all future contributions to the maintenance of such improvements and works, such amount as being invested in Government securities at the current rate of interest shall yield a sum equal to such average annual expense. The provisions of sections 31, 38, and 39 shall apply to such capitalized amount.

49. The Commissioners, the Commissioner of the Division, and every officer appointed by the Lieutenant-Governor under section 33, shall have the powers conferred on Civil Courts by the Code of Civil Procedure for compelling the attendance of witnesses and the production of evidence and for examining witnesses in any enquiry or appeal which they or he may be empowered to make or entertain under the provisions of this Act.

50. Any land held free of rent or revenue, being less than one hundred standard bighas in extent, and not being a property entered on the Collector's General Register of revenue-free lands, may, for the purposes of this Act, be deemed to form a tenure or under-tenure held immediately from some landholder, and the Commissioners shall determine who shall be deemed to be the landholder in respect of such tenure; provided that any holder of such land, who may deposit the cost of survey of his land at a rate to be approved by the Commissioners and calculated on the area claimed by him, shall be entitled to be deemed a landholder in respect of such lands within the meaning of this Act.

51. Wherever any land as mentioned in the last preceding section shall be deemed to form a tenure or under-tenure held immediately from a landholder as therein provided, every sum payable to the landholder in respect of such land in any one year shall be payable in two equal instalments on such dates as the Commissioner of the Division may fix. Such Commissioner shall cause due notice to be given in the villages concerned of the dates so fixed by him.

52. All notices under this Act required to be served may be served by delivering the same to the person to be served, or by posting the same upon the door of his dwelling-house, or if such person cannot be found and his dwelling-house is not known, then by posting the same on some conspicuous part of the land to which such notice relates, and copies thereof at the Munsif's Court within whose jurisdiction, and the police thana within the limits of which, such land is situate.

53. No proceeding under this Act shall be defeated or invalidated by reason of any defect in the number or property of assenting landholders, nor by any defect or omission in the publication or service of any notification, notice or order, unless material injury is done to any person by such defect or omission; and every order and report of the Commissioners, of the Collector, and of any officer appointed by the Lieutenant-Governor under section 33, shall be conclusive evidence that all notifications and notices hereby required as preliminary thereto had been duly published and served, and that all other preliminaries thereunto had been duly performed, and, save as is hereinbefore provided, shall be final and conclusive.

54. The Lieutenant-Governor may by an order in writing direct that any portion of a scheme adopted and ordered to be executed under this Act shall, for the purposes of this Act or for any such purposes, be deemed to be a separate scheme.

55. The Lieutenant-Governor may specially empower any person to do all or any acts, to discharge all or any functions, and to exercise all or any powers which may be done, discharged or exercised by a Collector under this Act, and on any person being so specially empowered, such person may do all or any of such acts, discharge all or any of such functions, and exercise all or any of such powers, and such person shall be deemed to be the Collector for the purposes of the scheme in respect of which he is so specially empowered.

56. The Collector may, with the sanction of the Commissioner of the Division, delegate to any Deputy, Assistant, or Sub-Deputy Collector, or to any similar officer, the performance of any acts and the discharge of any functions which the said Collector may perform or discharge under this Act;

and upon such delegation such Deputy Collector or other officer may do any such acts and discharge any such functions;

and may exercise any powers for the performance of the same, which the Collector may exercise under this Act;

Provided that all acts done, functions discharged, and powers exercised by such officer, shall be done, discharged, or exercised subject to the control and supervision of the Collector.

57. Notwithstanding anything hereinbefore contained, all the proceedings of the Commissioners and of the Collector under this Act shall be subject to the general control and supervision of the Commissioner of the Division.

58. The Lieutenant-Governor may from time to time make rules to regulate the following matters:—

(a) the proceedings of any officer, who, under any provision of this Act, is required or empowered to take action in any matter;

(b) the person by whom, the time, place, or manner at or in which, anything for the doing of which provision is made in this Act, shall be done;

(c) and generally to carry out the provisions of this Act.

The Lieutenant-Governor may from time to time alter or cancel any rules so made.

Such rules, alterations, and cancelment shall be published in the *Calcutta Gazette*, and shall thereupon have the force of law.

PART VII.

SPECIAL PROVISIONS FOR WORKS CARRIED OUT UNDER BENGAL ACT V OF 1871.

59. The following portions of this Act shall apply to any scheme or works carried out under the provisions of Bengal Act V of 1871, that is to say—

Portions of this Act applicable to works carried out under Bengal Act V of 1871.

(a) As to the method of realizing sums due on account of the cost of the works, sections 31, 38, 39, and 40.

(b) As to the recovery by landholders or superior tenants of the cost of the works, from persons holding land under them, Part V;

(c) As to other matters, Part VI.

60. If the Lieutenant-Governor is satisfied that the apportionment of the cost of any scheme or works carried out under the provisions of Bengal Act V of 1871 is inequitable for reasons discovered by the operation of the completed scheme, or on grounds not originally considered by the Commissioners, the Lieutenant-Governor may, at any time within one year after the commencement of this Act, direct a revision of the said apportionment, and may for the purpose of such revision appoint Commissioners. The provisions of Part I shall be applicable to the appointment of, and to the conduct of business by, such Commissioners.

61. Such Commissioners shall proceed without delay to revise such apportionment, and in making such revision they shall be guided by the provisions of sections 28, 32 and 34, so far as the same may be applicable, and shall have regard to the degree of benefit which, upon taking proceedings under this section, they may find to have been conferred on the lands: provided that the total sum apportioned upon such revision as payable in respect of all the lands improved or reclaimed by the works shall not be less than the total cost of the construction of such works within the meaning of section 25.

62. For the purpose of making such revised apportionment, such Commissioners shall have full power to increase or reduce the apportionment which was previously made upon individuals, and to direct such refunds to be made to, or addi-

tional payments to be levied from, individuals, as may be necessary to give full and complete effect to such revision. Any person dissatisfied with any order passed by such Commissioners under this section may appeal to the Commissioner of the Division, and the provisions of section 35 shall be applicable to any such appeal.

63. The provisions of section 36 as to an apportionment becoming final shall be applicable to such revised apportionment; and the provisions of sections 31, 38, 39 and 40 shall be applicable to the realization of any sums which may become payable under the same.

Finality of revised apportionment. Realization of sums due thereunder.

SCHEDULE A—(referred to in section 12).

BENGAL DRAINAGE ACT, 1880.

To all whom it may concern.

TAKE notice that it is proposed to drain and improve certain lands in the village of , paraganah . Plans and provisional estimates of the works proposed are now lodged in and may be inspected by any person interested on any of the days and at any of the times specified below till the day of next. (Here specify the days and hours at which the plans and the estimates will be open to inspection.)

All proprietors of estates paying revenue direct to Government of which any lands may be affected by the proposed drainage and improvement,

all owners of revenue-free lands borne on the Collector's General Register of Revenue-free lands, which may be so affected,

all persons having permanent rent-paying interests in tenures, undertenures or lands extending to not less than one hundred standard bighas to be so affected,

and all persons having permanent rent-free interests in tenures, undertenures and lands to be so affected,

are hereby called upon to inspect the said plans and estimates.

Those who wish the works to be carried out and are willing to bear their proportion of the cost thereof are requested to send to the Drainage Commissioners their assent in writing, signifying therein, so far as possible, the nature and extent of their interest in such land, on or before the day of 18 . Those who have any objection to the execution of the said works are required to send in their objection in writing to the said Commissioners on or before the said day.

All persons who are hereby called upon to give their assent or express their objections in writing are warned that under the law the Commissioners are not bound to recognize any such assent or objection unless the person making the same specifies the extent and portion of the land which he holds, and the tenure or interest which he has in the same.

Collector, for the Drainage

Commissioners.

SCHEDULE B—(referred to in section 37).

BENGAL DRAINAGE ACT, 1880.

To

Take notice that the Drainage Commissioners have apportioned against you the sum of _____ as your contribution in respect of the lands of _____, and that you are hereby required, within one month from the date of the service of this

notice, to pay to me the said sum of Rs. _____, together with interest at the rate of five per centum per annum from the day of _____, or to enter into an engagement for the payment of the same by instalments extending over a period of not more than ten years.

Collector.

W. E. H. FORSYTH,

Offg. Asst. Secy. to the Govt. of Bengal.



The Calcutta Gazette.

WEDNESDAY, JUNE 23, 1880.

PART III.

Acts of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

ACT No. VI OF 1880.

THE BENGAL DRAINAGE ACT, 1880.

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THE following Act, passed by the Lieutenant-Governor of Bengal in Council received the assent of His Honor on the 22nd April 1880, and having received the assent of His Excellency the Governor General on the 28th May 1880, is hereby promulgated for general information:—

ACT No. VI of 1880.

An Act to provide for the Drainage and Improvement of Lands.

WHEREAS it is expedient that provision should be made for the better drainage and improvement of lands in the territories administered by the Lieutenant-Governor of Bengal: It is hereby enacted as follows:—

PRELIMINARY.

1. This Act may be called "The Bengal Drainage Act, 1880."

It extends to all the territories for the time being under the administration of the Lieutenant-Governor of Bengal;

and it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

2. Bengal Act V of 1871 (*The Hughli and Burdwan Drainage Act*) shall be repealed on and from the date upon which

this Act comes into force, but, subject to the provisions of this Act, this repeal shall not affect the past operation of such Act, or anything duly done or suffered, or any right, privilege, obligation or liability, acquired, accrued or incurred thereunder.

3. In this Act, unless there be something repugnant in the subject or context—

"The Collector" means the officer in charge of the revenue jurisdiction of the district within which the lands which form the subject of a scheme under this Act, or the greater portion of such lands, are situate. If any doubt arises as to whether the greater portion of the lands is situate within one of two or more districts, the Board of Revenue shall decide the point, and such decision shall be final:

"The Commissioners" mean the Drainage Commissioners to be appointed under this Act:

"Estate" means land included under one entry in the General Registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law for the time being in force by any Collector of a district, or a share of, or interest in, such land:

"Proprietor" means a person who as owner is solely or jointly in possession of an estate:

"Tenure" means—

(1) a permanent rent-paying interest in land immediately subordinate to that of a proprietor, and superior to that of a ryot, extending to not less than one hundred standard bighas affected or to be affected by any works under this Act;

(2) a permanent revenue-free or rent-free interest in land affected or to be affected by any works under this Act, when there exists no rent-paying interest in the same land between the proprietary interest in the estate and such revenue-free or rent-free interest :

"Undertenure" means—

(1) a permanent rent-paying interest in land subordinate to that of a tenure-holder and superior to that of a ryot, extending to not less than one hundred standard bighas affected or to be affected by any works under this Act ;

(2) a revenue-free or rent-free interest in land affected or to be affected by any works under this Act, when there exists a rent-paying interest in the same land between the proprietary interest in the estate and such revenue-free or rent-free interest :

EXPLANATION.—The term "permanent" is used with reference to the tenure or undertenure itself, and not with reference to the person who happens to hold such tenure or undertenure for the time being. A tenure or undertenure is none the less permanent although held by a Hindú widow, a Sebait, or a person subject to the Mitakshara law.

"Landholder" and "Holder of Land." and "Landholder" and "Holder of land" mean—

(1) any person who as owner of an estate is solely or jointly in possession thereof ;

(2) any person who as owner of a tenure or undertenure is solely or jointly in possession thereof :

Where two or more persons are joint landholders, they shall be jointly and severally liable under this Act, except as is otherwise expressly provided herein :

"Reclaimed land" means land which was unfit for cultivation before the execution of any works under this Act, but which has been rendered productive by such works :

"Improved land" means land which was more or less fit for cultivation before the execution of any works under this Act, but of which the productive powers have been increased by such works :

"Part" and "Section" mean respectively a part and section of this Act.

PART I.

APPOINTMENT OF COMMISSIONERS AND CONDUCT OF BUSINESS.

4. Whenever it appears expedient to the Lieutenant-Governor to carry out any scheme and plans for the drainage and improvement of any tract of land, the Lieutenant-Governor may appoint any number of persons not less than seven, of whom the majority shall be qualified by being holders of lands to be affected by the works mentioned in the said scheme and plans, or managers on behalf of such holders, to be Drainage Commissioners for carrying out the provisions of this Act ; and the Lieutenant-Governor may from time to time remove, or accept the resignation of, any such Commissioner, or may add to the number of the Commissioners, and may appoint another person in the place of any such Commissioner dying,

resigning, being removed or ceasing to reside in the district in which such lands are situate, but so as that the majority of the Commissioners shall always be persons qualified as aforesaid.

No act done or proceeding taken by the Commissioners shall be invalid merely on the ground that at the time of doing such act or of taking such proceeding the majority of the Commissioners were not persons qualified as aforesaid.

5. The Lieutenant-Governor shall from time to time appoint one of the persons so appointed Commissioners as aforesaid to be Chairman of the Commissioners, and may at any time, if he see fit, revoke such appointment and appoint another of such persons to be Chairman. The Commissioners may sue and be sued in the name of their Chairman.

6. The Commissioners shall ordinarily meet for the transaction of business once at least in every quarter. Such meeting shall be held upon such day and at such hour as the Commissioners shall from time to time determine. No business shall be transacted at any meeting unless at least three members are present at the commencement and close of such business.

7. The Chairman of the Commissioners may, whenever he thinks fit, and shall, upon request made in writing by three of the Commissioners, call an extraordinary meeting of the Commissioners.

8. The Chairman shall preside at every meeting of the Commissioners, but in case of his absence at the time appointed for holding a meeting, the Commissioners present may choose one of their number to be President of such meeting.

9. (1)—All questions at any meeting, including the question of Transaction of business at meetings, adjourning such meeting, shall be decided by a majority of votes of the members present. In case of an equality of votes, the President for the time being of such meeting shall have a second or casting vote.

(2)—The Commissioners may delegate any of their powers to Committees consisting of such member or members of the body as they think fit. Any Committee so formed shall, in the exercise of the powers delegated, conform to any regulations that may be imposed on them by the Commissioners.

(3)—A Committee may elect a Chairman at their meetings. If no Chairman is elected, or if he is not present at the time appointed for holding any meeting, the members present shall choose one of their number to be Chairman of the same.

(4)—A Committee may meet and adjourn as they think proper. Questions at any meeting shall be determined by a majority of votes of the members present, and in case of an equal division of votes, the Chairman shall have a second or casting vote.

10. The Chairman of the Commissioners may by Power to appoint servants. and dismiss such servants and officers other than Engineers and their subor-

dinates, as may be required for the purposes of this Act, and he may control them as he shall see fit. There shall be paid to such servants and officers respectively such salaries as may appear to the Commissioners to be proper.

11. The Lieutenant-Governor may, when satisfied that the objects of their appointment have been fulfilled, direct that the powers and functions of the Commissioners shall cease.

PART II.

DRAINAGE SCHEME.

12. The Commissioners shall within three months after their appointment cause a notification in the language of the district to be published by beat of drum in every village in which may be situate any portion of the lands to be affected by the works proposed in such scheme and plans. Every such notification shall be in the form in Schedule (A) hereto annexed, and shall further be published by posting the same at the office of the Collector and of the Sub-divisional Officer and in some conspicuous part of the village aforesaid, and at the Court of the Munsif within whose jurisdiction, and at the thana within the limits of which, such village is situate.

13. After the date named in such notification, a list of the persons who may have given their assent or made any objection in writing in accordance with such notification shall be prepared and published in the manner provided in section 12 for the information of all concerned. Such list shall contain a specification of the land in respect of which such persons claim to vote as landholders, and of the titles in virtue of which they claim to vote respectively: and there shall be appended thereto a notice that objections to the right of voting so claimed must be lodged with the Commissioners within one month after the publication of the said list.

14. (1)—The Commissioners may, at some meeting to be held not less than one month after such list has been published under the provisions of section 13, proceed to ascertain whether the holders of half of the lands to be reclaimed or improved have assented in writing to the adoption of the scheme. For the purpose of so ascertaining, the Commissioners shall take into account the vote of not more than one landholder in respect of any one portion of the area affected, and, whenever more than one landholder shall have given his vote in respect of the same portion of such area, the Commissioners shall take into account the vote of the landholder who holds the lowest interest in respect of such area, and shall not take into account, in respect of such area, the vote of any superior landholder who may have voted.

Example—

A gives his vote as proprietor of 5,000 bighas;
B as patnidar of 2,000 bighas included in A's proprietary of 5,000 bighas;
C as mokarridar of 100 bighas included in B's patni;

D as holding a permanent jama of 500 bighas included in A's proprietary of 5,000 bighas, but not in B's patni of 2,000 bighas.

The Commissioners shall take into account the votes of the respective landholders in respect of the following areas:—

D for	...	500 bighas.
C "	...	100 "
B " (2,000—100=)	...	1,900 "
A " (5,000—2,000—500=)	...	2,500 "
Total...		5,000 "

(2)—One vote only shall be allowed in respect of an estate, tenure or undertenure belonging to two or more co-sharers. In order to ascertain whether this vote shall be taken as assenting or objecting to the adoption of the scheme, regard shall be had to the votes of the co-sharers individually, and account shall be taken of those only who actually vote. If the majority assent, a vote of assent shall be deemed to have been given in respect of the estate, tenure or undertenure. If the majority object, a vote of objection shall be deemed to have been given. If the number assenting and the number objecting are equal, no vote shall be deemed to have been given in respect of such estate, tenure or undertenure.

15. The Commissioners may in their discretion refuse to take into account the vote of any person who, after being required to do so, fails to specify the extent of land held by him, and the nature of the interest which he has in such land.

16. (1)—Whenever the right of any person to vote as a holder of any land shall be disputed, the Commissioners shall determine whether the vote of such person shall or shall not be accepted in respect of such land, and their determination shall be final for the purposes of section 17; provided that any "recorded proprietor," as defined by section 3 of "The Land Registration Act, 1876," shall be entitled to vote in respect of any property of which he is the recorded proprietor.

(2)—In the case of a landholder who is a proprietor disqualified to manage his own property under the provisions of "The Court of Wards' Act, 1879," or any similar law for the time being in force, or who is a minor or a lunatic, the right to vote shall be exercised by any manager of the property of such disqualified proprietor or minor or lunatic, appointed by the Court of Wards or by the Civil Court under the provisions of any law for the time being in force, or, where no such manager has been appointed, by any person who, in the opinion of the Commissioners, duly represents the interests of such minor or lunatic.

(3)—Where the holder of any land cannot be found, such land shall be altogether excluded in any computation that may be made in order to determine whether the landholders of not less than half of the area to be reclaimed or improved have assented to the adoption of the scheme.

17. If the landholders of not less than half of the area to be reclaimed or improved, ascertained as above provided, shall have assented to the adoption of the scheme, and not otherwise, the Commissioners shall proceed to consider such scheme, together with the plans and estimates for carrying out the same, and shall further consider such objections as have been made thereto; and may adopt such schemes, plans, and estimates, or may alter and modify the same, and adopt the scheme, plans, and estimates so altered or modified, or may disapprove or reject the same.

18. If the landholders of half of the area to be reclaimed and improved do not assent to such scheme, but the landholders of half of the area to be affected by some portion of such scheme assent thereto, the Commissioners may resubmit such portion of the scheme to the Lieutenant-Governor, and may, with his approval, proceed thereupon in manner aforesaid.

19. If the Commissioners adopt such scheme, plans and estimates, or any modification or alteration thereof, they shall, within one month after such scheme, plans and estimates, or some modification or alteration thereof, have been adopted by them, cause the same to be laid before the Lieutenant-Governor, and the Lieutenant-Governor may sanction the scheme, plans and estimates so adopted, or any portion thereof, as to him shall seem fit.

20. (1)—The Commissioners may, with the previous assent of the Lieutenant-Governor, at any time reconsider any scheme, plans or estimates adopted by them, and add to, alter or modify the same;

and when any addition, alteration or modification has been adopted by them, they shall cause the same to be laid before the Lieutenant-Governor: the Lieutenant-Governor may sanction such addition, alteration or modification, or any portion thereof, as he may think fit, and thenceforth the provisions of this Act shall apply to such addition, alteration or modification, as if it had been a portion of the original scheme, plans or estimates; and every such addition, alteration or modification, after it has been adopted, shall be published by the Commissioners as to them shall seem fit.

No such addition, alteration or modification shall be adopted at a meeting at which the majority of the members present are not qualified as provided by section 4.

(2)—No addition, alteration or modification under clause (1) to or of any scheme which affects any lands other than those which would be affected by some scheme theretofore published, shall be adopted by the Commissioners until the same has been published for not less than fifteen days, according to the provisions of section 12, in every village in which may be situate any portion of the lands to be affected by such addition, alteration or modification; nor shall any such addition, alteration or modification be adopted unless the landholders of not

less than half the entire area to be affected by the scheme as so added to, altered or modified, assent to the same.

21. When the Lieutenant-Governor has sanctioned any scheme, plans and estimates as aforesaid, or some portion thereof, he may direct proceedings to be taken under the provisions of "The Land Acquisition Act, 1870," or any other law for the time being in force for the acquisition of land for public purposes, in order to obtain any land likely to be required for the works mentioned in such sanctioned scheme, plans and estimates, or any portion thereof.

22. The Lieutenant-Governor may, if he thinks fit, order the works specified in such sanctioned scheme, plans and estimate, or portion thereof, to be executed by an officer to be thereunto appointed by the Lieutenant-Governor, and may, subject to the sanction of the Governor-General of India in Council, order the advance from the Public Funds of such sum of money as may be required for the purpose of making such improvements, and such officer may cause the works specified in such scheme and plans to be executed, and for that purpose may by himself, his agents and workmen enter into or upon any lands and perform such works thereupon as may be required.

23. The Lieutenant-Governor may at any time after the said works have been commenced by an order sanction any alteration or modification of such scheme or plan suggested to him by the officer in charge of such works, if after communication with the Commissioners it shall appear to him that by such alteration or modification the general character and scope of the scheme will not be altered, nor greater expenditure incurred thereon, than would be incurred in the scheme as originally sanctioned; and after such sanction, such alteration or modification shall be taken to be a portion of the scheme adopted by the Commissioners in substitution for the portion of such scheme thereby altered, and every such alteration or modification shall be published by the Commissioners as to them shall seem fit.

24. (1)—Any person who alleges that damage has been caused to his property by any scheme or works commenced or carried out under this Act may, at any time before the expiry of the three years mentioned in clause (1) of section 28, prefer to the Commissioners a claim for compensation in respect of such damage actually caused, and of all future damage likely to be caused to such property by such scheme or works.

The Commissioners shall duly consider any such claim; and if they are satisfied that such damage has been caused or is likely to be caused, they shall assess such compensation as to them appears fair and reasonable.

If such person agrees to accept the amount so assessed, the same shall be paid to him:

If he do not agree to accept such amount, the Commissioners shall

make a reference to the Civil Court in the manner in which a Collector is empowered to make a reference by section 15 of "The Land Acquisition Act, 1870," and the provisions of Part III of the said Act shall apply to any reference so made.

(2)—When the persons interested in such property, to which damage has been caused as aforesaid agree to accept the amount of compensation assessed by the Commissioners, but a dispute arises as to the apportionment of the same or any part thereof, or when the amount of compensation has been settled by the Court on a reference under clause (1) of this section, and a similar dispute arises, the Commissioners shall refer such dispute to the decision of the Civil Court, and the provisions of Part IV of the said Land Acquisition Act shall apply to any reference so made.

(3)—When the amount of compensation assessed by the Commissioners does not exceed one thousand rupees, any reference made under the said clause (1) may be transferred by the Principal Civil Court of original jurisdiction of the district to any Subordinate Judge in the same district, and such Subordinate Judge shall have power to hear and dispose of the same; and any reference made under clause (2) of this section may be transferred by such Principal Civil Court to any Munsif in the same district, and such Munsif shall have power to hear and dispose of the same.

PART III.

EXPENDITURE AND APPORTIONMENT.

25. All amounts paid as compensation for any lands taken for the purposes of this Act, or for damage inflicted in carrying out any scheme or works under this Act, or as salaries of officers, servants, or establishments, or for surveys or valuations (whether antecedent or subsequent to the preparation of the scheme and plans), and all amounts otherwise duly expended in carrying out the purposes of this Act, shall be included in, and deemed to constitute the cost of, construction of the works, and may be defrayed by advances from the Public Funds as provided by section 22.

26. (1)—All such advances shall bear interest at the rate of five per centum per annum until recovered in the manner hereafter in this Act provided. All such interest, which falls due before the completion of the works is certified to the Commissioners as hereafter provided, shall, upon such completion being so certified, be added to the total amount of the principal sums advanced; and interest at the rate of five per centum per annum upon the total of such interest and principal shall thereafter be payable to the Collector half-yearly by the holders of the lands affected by the works.

(2)—It shall be the duty of the Commissioners to distribute the liability to pay such half-yearly interest amongst such landholders, as soon as the completion of the works has been certified to them, and to report the details of such distribution to the Collector.

(3)—In order to the distribution of such liability, the Commissioners shall have regard to the plans and estimates of the scheme and to such other information as may be supplied to them by the Officer in charge of such works, and shall distribute the liability in a general way, so that the share of the interest payable by the holders of each estate, tenure or under-tenure from whom any sum is made payable shall be in proportion to the benefit to be derived by the lands of such holders, so far as the Commissioners can judge of such proportions.

(4)—Notices shall be served upon such holders setting forth the half-yearly amount of interest payable by them and the date upon which it is payable. Where two or more persons are joint holders of an estate, tenure or under-tenure, service of notice under this clause on any one such person shall be deemed to be good and sufficient service on each and all of such persons. If such half-yearly amount be not paid upon such date, the Collector may proceed for its recovery according to the law for the time being in force for the recovery of Public Demands.

27. The Officer in charge of the said works shall, until the same shall be finally completed, once in every three months make a detailed report to the Commissioners of the progress of such works and the expenditure thereupon from the day up to which the next preceding report shall have been brought down; and the Examiner of Public Works Accounts to the Government of Bengal, or some other officer authorized in that behalf by the Lieutenant-Governor, shall from time to time certify the sums advanced in accordance with the provisions of section 25, and the dates of such advances, and every such certificate shall be final and conclusive evidence in a Civil Court or in any proceedings under this Act of the sums therein stated to have been advanced having been so advanced, and of the dates upon which they were respectively so advanced.

28. (1)—The Officer in charge of the works shall, as soon as they have been completed, certify such completion to the Commissioners; and the Commissioners shall, upon the expiry of three years from such completion being so certified to them, proceed to classify all the lands benefited by the works according to the degree of benefit conferred; and in such classification they shall distinguish the Improved lands from the Reclaimed lands.

It shall be lawful for the Commissioners at any time during such three years to make such inspections of the lands and such sur-

veys thereof, and otherwise to collect such information, as shall in their opinion conduce to the making of such classification, and of the apportionment hereinafter mentioned.

(2)—The Commissioners shall, after making such classification, proceed further to apportion the total cost of construction, together with the interest mentioned in section 26, upon the Improved lands and Reclaimed lands, and shall draw up a statement showing the amount payable to the Collector by each landholder—

(a) in respect of his Improved lands, if any ; and

(b) in respect of his Reclaimed lands, if any.

In making this Apportionment the Commissioners shall, as far as may be possible, make payable in respect of each plot or field of Improved

land a sum not exceeding the amount of the increased capitalized value, which, in the opinion of the Commissioners, has been conferred on such land by the works.

29. If upon the completion of the Apportionment under section 28 it shall be found that any landholder has, under the provisions of section 26, paid more or less interest than he would have been required to pay according to the proportions adopted in the apportionment under clause (2) of section 28, if such apportionment had then been in force, the Commissioners shall direct such refunds to be made or such additional amounts to be levied as shall be necessary to bring the payments of all the landholders concerned into conformity with such proportions.

30. Whenever any land, in respect of which any sum is apportioned as payable under the provisions of section 26 or 28, forms part of a tenure, or of a tenure and of an undertenure, it shall be lawful for the Commissioners to declare whether the holders of the estate, of the tenure, or of the undertenure, shall be deemed to be the landholders liable to pay to the Collector the sum apportioned as payable in respect of such land.

31. The total sum so made payable in respect of the Improved lands of any one landholder, and the total sum so made payable in respect of the Reclaimed lands of any one landholder, with interest upon such sums at five per centum per annum from the date of Apportionment, and any interest payable under section 29, and any interest payable under clause (1) of section 26, but not paid or recovered before the apportionment under section 28, shall be a first charge upon such Improved lands and upon such Reclaimed lands respectively. Such charge shall not be avoided by the sale of such lands or of any estate, tenure, or undertenure within which they are included for arrears of revenue or rent.

32. The Commissioners shall, so soon as conveniently may be, after having apportioned the sums to be payable by the holders of the lands of any village respectively, make and publish a Report describing the several lands in respect of which they have declared

such sums to be payable, the names of the respective holders thereof, who have been made liable to pay the same to the Collector, and the sum payable by each in respect of the same. Every such Report shall distinguish between the Reclaimed lands and the Improved lands, and shall classify the latter according to the extent of the improvement. A copy of such report shall be sent through the Collector to the Commissioner of the Division for confirmation by such Commissioner.

33. If the Commissioners shall, for the space of three months after the completion of the entire works has been certified to them as aforesaid, neglect or refuse to proceed with the Apportionment of the sums payable as aforesaid, or to make such Report as aforesaid, or for the space of two months after any Report and Apportionment shall have been returned to them for further consideration and revision under the provisions hereinafter contained, neglect or refuse to proceed to such further consideration and revision as is required, the Collector may serve them with a notice requiring them to proceed as aforesaid: and if for one month after service of such notice they neglect so to proceed, the Lieutenant-Governor may appoint such officer or officers as to him shall seem fit to make or consider and revise such Apportionment and Report, and to do all or any of the subsequent acts which the Commissioners are hereby required or empowered to do in respect of such Apportionment and Report; and every Apportionment and Report so made or revised, and every such act so done shall have the same force and effect as if the same had been made, revised, or done by the Commissioners.

34. Whenever any Apportionment and Report have been made in pursuance of the provisions hereinbefore contained, the Commissioners shall cause such Report to be published by affixing in every village in which any lands mentioned therein are situate a copy of so much thereof as relates to such lands, and also a like copy at the office of the Collector and of the Sub-divisional Officer, and at every Munsif's Court within whose jurisdiction, and at every police thana within the limits of which, such village, or any part thereof, is situate. The fact of such Apportionment and Report having been made, and of such copies having been affixed, shall also be notified by beat of drum in every such village.

35. Any person who may deem himself to be aggrieved by any such Apportionment may, within one month after such Report has been published, prefer an objection before the Commissioners, and the Commissioners shall be bound to enquire into and decide upon such objection; and any person who is dissatisfied with such decision may within one month from the date of such decision appeal to the Commissioner of the Division against such Apportionment; and such Commissioner shall cause notice of the day fixed for the hearing of such appeal to be published by affixing the same in the office of the Collector and of the Sub-divisional Officer and in a conspicuous place in every village, and in the Court of every Munsif within whose jurisdiction, and at every police thana within the limits of

Cost of construction with interest to be apportioned upon the Improved lands and Reclaimed lands.

Amount payable for the Improved lands not to exceed value of improvement.

Adjustment of excess or deficient payments of interest.

When the land is part of a tenure, &c., Commissioners may declare who shall be deemed liable as landholders.

Amounts made payable to be a charge upon the Improved lands and Reclaimed lands respectively. Secretary of State for India in Council to have a perpetual lien for their recovery.

Commissioners to report Apportionment.

In default of Commissioners, officer appointed by Lieutenant-Governor to make Apportionment and Report.

Appeal against Apportionment.

which any of the lands mentioned in such Report are situate.

Such Commissioner shall hear such appeal and the objections thereto of all persons interested, and may confirm such Apportionment, or may revise and alter the same as to him shall seem fit, or may return the same to the Commissioners for further consideration and revision;

Provided that the total sum apportioned by every Apportionment and Report so revised and altered, as payable in respect of all the lands improved or reclaimed by the works, shall not be less than the total cost of the construction of such works within the meaning of section 25.

Every such Apportionment and Report, when revised or altered, shall, so far as the same has been altered, be published, and be liable to appeal in like manner as the original Apportionment and Report.

The decision of the Commissioner of the Division upon any appeal under this section shall be final.

36. Whenever the Commissioner of the Division shall confirm any Apportionment and Report, or whenever one month shall have elapsed from the publication of any Report without any appeal therefrom having been preferred, he shall pass an order declaring the sums payable in respect of the lands respectively and the persons liable to pay the same to be determined, and shall cause such order to be published in such manner as to him shall seem fit.

Final determination of Apportionment.

PART IV.

RECOVERY OF SUMS DUE TO THE COLLECTOR.

37. As soon as any Apportionment has been determined as aforesaid, the Collector may cause a notice in the form in Schedule (B) hereto annexed to be served upon any landholder who has not paid the sum payable by him. Such notice shall require such landholder within one month from the date of its service upon him to pay such sum with interest at the rate of five per centum per annum, or to enter into an engagement for the payment by instalments extending over a period of not more than ten years of such sum, together with interest at the said rate on all instalments remaining unpaid at the date of such payment.

Collector to serve notice of Apportionment, requiring payment or engagement to pay.

38. If any landholder fails to discharge the sum made payable in respect of his Improved lands or in respect of his Reclaimed lands, or fails to enter into an engagement for the payment thereof as in this Act hereafter provided, or having entered into such an engagement fails to discharge any instalment payable thereunder, such sum or such instalment, together with interest thereupon at five per centum per annum shall be recoverable under the provisions of any law for the time being in force for the recovery of Public Demands.

If amount not discharged, the Collector may recover it as a Public Demand.

39. If the Collector thinks it inexpedient to proceed under the provisions of section 38, or having so proceeded shall have failed to realize the sum due, he may, with the sanction of the Board of Revenue, raise the amount neces-

Collector may also with sanction of Board of Revenue raise unpaid amount by leasing or mortgaging the Improved or Reclaimed lands.

sary to discharge the sum or instalment remaining unpaid—

- (a) by letting in perpetuity or for a term, on payment of a premium equivalent to such amount, the whole or any part of such Improved lands or Reclaimed lands;
- (b) by mortgaging the whole or any part of such Improved lands or Reclaimed lands;
- (c) by letting in farm or managing by himself or another the whole or any part of such Improved lands or Reclaimed lands; or
- (d) partly by one of such modes and partly by another or others of them.

For the purposes of this section, the Collector may exercise all the powers of the owner of such Improved or Reclaimed lands: and his signature shall be a good and sufficient signature to any document necessary to carry into effect the said purposes.

40. In case the Collector certifies that any sum payable as hereinbefore provided cannot be realized as provided by section 38 or 39, so much of such sum as shall not have been so realized shall be a charge upon any profits that may accrue from the property vested in the Collector under the provisions of section 47.

41. Any landholder who has entered into an engagement for the repayment of any sum apportioned as aforesaid may at any time repay to the Collector the entire amount of the principal sum which shall be then remaining due, and interest thereupon up to the day of payment, and thenceforth the said engagement shall be terminated and all liabilities in respect thereof for principal or interest shall determine.

Power to repay advances.

PART V.

RECOVERY BY LANDHOLDERS OR SUPERIOR TENANTS OF THE COST OF THE WORKS FROM PERSONS HOLDING LAND UNDER THEM.

42. Every landholder who has been charged with any sum by a Report published as aforesaid may, after he has paid or engaged to pay the same—

Proprietor may recover from subordinate tenants.

(a) proceed under any law for the time being in force to enhance the rents of any person holding immediately from him any land, the productive powers of which have been increased by any works carried out under this Act, provided that any such person may at his option elect to pay under clause (b) of this section: or

(b) recover such sum or any part thereof, according to the proportions hereinafter provided, with interest at the rate of five per centum per annum from the date of payment by him of any portion thereof, from the persons holding immediately from him lands in respect of which such sum has been declared payable, and which have been benefited by any scheme or works carried out under this Act.

(c) The sum recoverable by such landholder from each such person under clause (b) in respect of the lands of each class shall bear the same proportion to the sum charged upon such landholder

in respect of all lands of that class as the area of the lands of that class which are held by such person bears to the area of the lands of the same class in respect of which the landholder has been charged. No person from whom a landholder is authorized to recover any sum under this section shall be liable to pay in any one year more than one-tenth part of the total sum so recoverable from him, and no person shall be liable to pay in one year more than the increased annual value of the lands in respect of which the payment is made.

43. Any superior tenant who has made any payment to a landholder under the provisions of clause (b) of section 42 may

Recovery by superior tenant.

(a) proceed under any law for the time being in force to enhance the rents of any person holding directly from him lands the productive powers of which have been increased by any works carried out under this Act, provided that any such person may at his option elect to pay under clause (b) of this section: or

(b) recover the sum or part of the sum which has been so paid by him according to the proportions and subject to the rules laid down in clause (c) of section 42, with interest at the rate of five per centum per annum from the date of payment by him of any portion thereof, from the persons holding directly from him lands in respect of which the payment has been made, and which have been benefited by any scheme or works carried out under this Act.

44. (1)—The sum payable to a landholder or superior tenant in any one year under clause (b) of section 42 or under clause (b) of section 43 shall be payable by equal instalments upon the days appointed for the payment to such landholder or superior tenant of the rent of the lands concerned, and shall be recoverable as if the same were an arrear of rent.

Mode and time of payment.

(2)—If such landholder or superior tenant and any person holding lands directly from him cannot agree as to the amount which such person shall pay, such landholder or superior tenant may serve such person through the Collector with a notice setting forth the amount which he claims, and requiring such person, within one month after the service of such notice, to pay the amount claimed or enter into an engagement for the payment thereof by instalments extending over a period of not more than ten years, or appear before the Collector and object.

Provision in case of dispute as to the amount to be paid.

(3)—If such person do not within the said period of one month appear and object, the amount set forth in such notice shall be recoverable with interest at five per centum per annum. If such person appear and object, the Collector shall dispose of such objection, and his decision shall be final. The Collector may direct that any sum of money payable under his decision, together with any costs awarded by him, be paid by instalments extending over a period of not more than ten years. The provisions of clause (1) of this section shall apply to every sum payable according to an order of the Collector passed under this section.

Collector to decide objection.

45. No person from whom any sum has been recovered under clause (b) of section 42 or under clause (b) of section 43 shall be subject to any claim for enhanced rent on account of the benefit caused by the works to his lands.

Proviso.

PART VI.

MISCELLANEOUS.

46. All outlets and water-channels, natural or artificial, which shall be altered, enlarged, excavated or cut under the provisions of this Act, and the construction and maintenance of embankments and of dams and works therein or connected therewith shall, save as hereinafter provided, be subject to the law for the time being in force regulating the construction and maintenance of public embankments and public rivers, channels, and outlets.

47. All lands which are taken under the provisions of this Act for the purpose of the construction of works therein or thereon, and all works constructed under the provisions of this Act, as well as all outlets, water-channels, embankments and dams so constructed, altered, enlarged, excavated or cut, shall be vested in the Collector of the district for the time being on behalf of the Secretary of State for India in order to effectuate and maintain the objects of this Act; and, to assist the Collector in the management of the same, the Lieutenant-Governor may appoint, or authorize the election, by the landholders aforesaid, of a Committee consisting of not less than four or more than six persons, being themselves holders of the lands reclaimed or improved.

48. (1)—The expense of keeping in efficient order and repair any improvements or works effected under this Act shall be charged to the profits from the property vested in the Collector under section 47, and if such profits shall not suffice, the balance shall be paid to the Collector in the proportions of the original contributions by the holders for the time being of the lands which have been benefited by such works; and all sums payable to the Collector under the provisions of this section shall be recoverable in the manner provided by section 38, or in the manner provided by section 39, and every proprietor or other person who has paid any such sum may recover the same, or any part of the same, in the proportion and subject to the rules laid down in section 42 or 43, as the case may be.

(2)—Any such amount as is specified in section 25 which from oversight or other cause has been omitted from the Apportionment and Report made under section 32 or section 33 may be charged and recovered under the provisions of clause (1) of this section.

(3)—If on the first day of January next before the last instalments payable under the provisions of section 36 are due, there is, after providing for the expense of keeping in efficient order and repair the improvements and works executed under this Act, a surplus of the profits

Cost of maintenance of works.

Recovery of items omitted from apportionment.

Surplus profits from property vested in Collector under section 47 to be appropriated to payment of debt to Government.

from the property vested in the Collector under section 47, such surplus or as much thereof as will suffice shall be appropriated to the liquidation of the said last instalments. Any landholder who has paid any such instalment in advance under the provisions of section 41 shall be entitled to a refund in proportion with interest at five per cent. per annum.

(4)—The Lieutenant-Governor may at any time, in his discretion, direct that the total average annual expense, which over and above such profits as aforesaid is necessary to keep such improvements and works in efficient order and repair, be estimated, and that there be levied from such landholders in lieu of all future contributions to the maintenance of such improvements and works, such amount as being invested in Government securities at the current rate of interest shall yield a sum equal to such average annual expense. The provisions of sections 31, 38, and 39 shall apply to such capitalized amount.

49. The Commissioners, the Commissioner of the Division, and every officer appointed by the Lieutenant-Governor under section 33, shall have the powers conferred on Civil Courts by the Code of Civil Procedure for compelling the attendance of witnesses and the production of evidence and for examining witnesses in any enquiry or appeal which they or he may be empowered to make or entertain under the provisions of this Act.

50. Any land held free of rent or revenue, being less than one hundred standard bighas in extent, and not being a property entered on the Collector's General Register of revenue-free lands, may, for the purposes of this Act, be deemed to form a tenure or undertenure held immediately from some landholder, and the Commissioners shall determine who shall be deemed to be the landholder in respect of such tenure; provided that any holder of such land, who may deposit the cost of survey of his land at a rate to be approved by the Commissioners and calculated on the area claimed by him, shall be entitled to be deemed a landholder in respect of such lands within the meaning of this Act.

51. Wherever any land as mentioned in the last preceding section shall be deemed to form a tenure or undertenure held immediately from a landholder as therein provided, every sum payable to the landholder in respect of such land in any one year shall be payable in two equal instalments on such dates as the Commissioner of the Division may fix. Such Commissioner shall cause due notice to be given in the villages concerned of the dates so fixed by him.

52. All notices under this Act required to be served may be served by delivering the same to the person to be served, or by posting the same upon the door of his dwelling-house, or if such person cannot be found and his dwelling-house is not known, then by posting the same on some conspicuous part of the land to which such notice relates, and copies thereof at the Munsif's Court within whose jurisdiction, and the police thana within the limits of which, such land is situate.

53. No proceeding under this Act shall be defeated or invalidated by reason of any defect in the number or property of assenting landholders, nor by any defect or omission in the publication or service of any notification, notice or order, unless material injury is done to any person by such defect or omission; and every order and report of the Commissioners, of the Collector, and of any officer appointed by the Lieutenant-Governor under section 33, shall be conclusive evidence that all notifications and notices hereby required as preliminary thereto had been duly published and served, and that all other preliminaries thereunto had been duly performed, and, save as is hereinbefore provided, shall be final and conclusive.

54. The Lieutenant-Governor may by an order in writing direct that any portion of a scheme adopted and ordered to be executed under this Act shall, for the purposes of this Act or for any such purposes, be deemed to be a separate scheme.

55. The Lieutenant-Governor may specially empower any person to do all or any acts, to discharge all or any functions, and to exercise all or any powers which may be done, discharged or exercised by a Collector under this Act, and on any person being so specially empowered, such person may do all, or any of such acts, discharge all or any of such functions, and exercise all or any of such powers, and such person shall be deemed to be the Collector for the purposes of the scheme in respect of which he is so specially empowered.

56. The Collector may, with the sanction of the Commissioner of the Division, delegate to any Deputy, Assistant, or Sub-Deputy Collector, or to any similar officer, the performance of any acts and the discharge of any functions which the said Collector may perform or discharge under this Act;

and upon such delegation such Deputy Collector or other officer may do any such acts and discharge any such functions;

and may exercise any powers for the performance of the same, which the Collector may exercise under this Act;

Provided that all acts done, functions discharged, and powers exercised by such officer, shall be done, discharged, or exercised subject to the control and supervision of the Collector.

57. Notwithstanding anything hereinbefore contained, all the proceedings of the Commissioners and of the Collector under this Act shall be subject to the general control and supervision of the Commissioner of the Division.

58. The Lieutenant-Governor may from time to time make rules to regulate the following matters:—

(a) the proceedings of any officer, who, under any provision of this Act, is required or empowered to take action in any matter;